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**FINAL**  
CITY COUNCIL  
CITY OF WICHITA  
KANSAS

City Council Meeting  
09:00 a.m. May 8, 2012

City Council Chambers  
455 North Main

**OPENING OF REGULAR MEETING**

- Call to Order
- Invocation
- Pledge of Allegiance
- Approve the minutes of the regular meeting on May 1, 2012

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**AWARDS AND PROCLAMATIONS**

- Proclamations:
  - Arson Awareness Week
  - Kansas State Nurses Week Centennial
  - Community Action Month
- Awards:
  - Mini MPA's

**I. PUBLIC AGENDA**

NOTICE: No action will be taken relative to items on this agenda other than referral for information. Requests to appear will be placed on a "first-come, first-served" basis. This portion of the meeting is limited to thirty minutes and shall be subject to a limitation of five minutes for each presentation with no extension of time permitted. No speaker shall be allowed to appear more frequently than once every fourth meeting. Members of the public desiring to present matters to the Council on the public agenda must submit a request in writing to the office of the city manager prior to twelve noon on the Tuesday preceding the council meeting. Matter pertaining to personnel, litigation and violations of laws and ordinances are excluded from the agenda. Rules of decorum as provided in this code will be observed.

1. Debbie Lamb – C-Span's visit to Wichita to capture the City's greatness.

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**II. CONSENT AGENDAS (ITEMS 1 THROUGH 21)**

NOTICE: Items listed under the "Consent Agendas" will be enacted by one motion with no separate discussion. If discussion on an item is desired, the item will be removed from the "Consent Agendas" and considered separately

*(The Council will be considering the City Council Consent Agenda as well as the Planning, Housing, and Airport Consent Agendas. Please see "ATTACHMENT 1 – CONSENT AGENDA ITEMS" for a listing of all Consent Agenda Items.)*



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**COUNCIL BUSINESS**

**III. UNFINISHED COUNCIL BUSINESS**

1. Appeal to City Council of a Protest by Universal Oil of the Award of Group 1 Contract FB 130274.

RECOMMENDED ACTION: Make a final determination on its prior award of Group 1 of Contract FB 130274 to Crossfaith Ventures, LC.

2. Petitions for Street Paving in Meadowland Addition, north of Kellogg, west of 143rd Street East. (District II)

RECOMMENDED ACTION: Approve the petitions, adopt the resolutions, and authorize the necessary signatures.

**IV. NEW COUNCIL BUSINESS**

1. Quarterly Financial Report for Quarter Ending March 31, 2012.

RECOMMENDED ACTION: Receive and file the Quarterly Financial Report for the quarter ended March 31, 2012.

2. Rename Kingsbury Park to Crystal Lake Prairie Park. (District V)

RECOMMENDED ACTION: Rename Kingsbury Park to Crystal Lake Prairie Park.

3. Sidewalk Café Application Requirements.

RECOMMENDED ACTION: Approve the recommended amendments to the Sidewalk Café Application Requirements and authorize staff to implement.

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**COUNCIL BUSINESS SUBMITTED BY CITY AUTHORITIES**

**PLANNING AGENDA**

NOTICE: Public hearing on planning items is conducted by the MAPC under provisions of State law. Adopted policy is that additional hearing on zoning applications will not be conducted by the City Council unless a statement alleging (1) unfair hearing before the MAPC, or (2) alleging new facts or evidence has been filed with the City Clerk by 5p.m. on the Wednesday preceding this meeting. The Council will determine from the written statement whether to return the matter to the MAPC for rehearing.

**V. NON-CONSENT PLANNING AGENDA**

None

## **HOUSING AGENDA**

NOTICE: The City Council is meeting as the governing body of the Housing Authority for consideration and action on the items on this Agenda, pursuant to State law, HUD, and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

**Fern Griffith, Housing Member is also seated with the City Council.**

### **VI. NON-CONSENT HOUSING AGENDA**

None

## **AIRPORT AGENDA**

NOTICE: The City Council is meeting as the governing body of the Airport Authority for consideration and action on items on this Agenda, pursuant to State law and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

### **VII. NON-CONSENT AIRPORT AGENDA**

#### **1. Rental Car Customer Facility Charge Program.**

RECOMMENDED ACTION: Approve the Resolution to adopt and implement a rental car Customer Facility Charge Program and authorize the Director of Airports to execute the necessary documents.

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## **COUNCIL AGENDA**

### **VIII. COUNCIL MEMBER AGENDA**

None

### **IX. COUNCIL MEMBER APPOINTMENTS**

#### **1. Board Appointments.**

RECOMMENDED ACTION: Approve the Appointments.

Adjournment

(ATTACHMENT 1 – CONSENT AGENDA ITEMS 1 THROUGH 21)

**II. CITY COUNCIL CONSENT AGENDA ITEMS**

1. Report of Board of Bids and Contracts dated May 7, 2012.

RECOMMENDED ACTION: Receive and file report; approve Contracts;  
authorize necessary signatures.

2. Applications for Licenses to Retail Cereal Malt Beverages:

<u>Renewal</u>	<u>2012</u>	<u>(Consumption on Premises)</u>
Beth Marschel	B J's Restaurant & Brewhouse**	7700 East Kellogg Drive
Isabel M Salome	Angela's Café #2**	2119 West 21st
Lawrence E Damm	Family Homes Association, Inc**	3202 West 13th North
Mary Villar	Mexico Cafe Delano**	555 West Douglas
<u>Renewal</u>	<u>2012</u>	<u>(Consumption off Premises)</u>
Son Tran	Speedway***	565 South Market
Kim Huynh	Kim Son Asian Market, LLC***	960 East Pawnee

\*\*General/Restaurant 50% or more gross revenue from sale of food.

\*\*\*Consumption/Retailer grocery stores, convenience stores etc.

RECOMMENDED ACTION: Approve licenses subject to Staff review and approval.

3. Preliminary Estimates:

a. Preliminary Estimates.

RECOMMENDED ACTION: Receive and file.

4. Consideration of Street Closures/Uses.

- Community Events - Intrust Bank Arena RibFest. (District I)
- Community Events - Intrust Bank Arena Hank Williams Jr. (District I)
- Community Events - Titan 10K Southside Scorchers. (Districts III and IV)
- Community Events - Celebrate America Concert at Bradley Fair. (District II)
- Community Events - Wesley Senior 5K. (District IV)

RECOMMENDED ACTION: Approve the request subject to; (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department; and (3) Securing a Certificate of Liability Insurance on file with the Community Events Coordinator.

5. Change Orders:

- a. Change Order No. 7-Douglas Block Parking Garage. (District I)

RECOMMENDED ACTION: Approve the Change Orders and authorize the necessary signatures.

6. Minutes of Advisory Boards/Commissions

Design Council, March, 21, 2012

Board of Park Commissioners, March 5, 2012

Board of Park Commissioners, March 19, 2012

Board of Park Commissioners, April 16, 2012

RECOMMENDED ACTION: Receive and file.

7. Contracts and Agreements for April 2012.

RECOMMENDED ACTION: Receive and file

8. Weapons Destruction.

RECOMMENDED ACTION: Receive and file the list of weapons.

9. Approval of Offers for the Meridian Pawnee to Orient Road Improvement Project and Drainage Outfall Project.  
(District IV)

RECOMMENDED ACTION: Approve the offers and authorize the necessary signatures.

10. 2012 Federal Justice Assistance Grant (JAG) Memorandum of Understanding.

RECOMMENDED ACTION: Approve the Memorandum of Understanding and authorize the appropriate signatures.

11. Regional Air Quality Improvement Project-Phase II.

RECOMMENDED ACTION: City Council, as project sponsor, approve the Grant Application, and authorize necessary signatures for grant forms.

12. Brooks Landfill Construction and Demolition Contract Amendment.

RECOMMENDED ACTION: Approve the contract amendment, extend the current contract expiration to December 28, 2012, authorize the necessary signatures, and direct City staff to issue a RFP for future contract operations.

13. Second Reading Ordinances: (First Read May 1, 2012)

- a. List of Second Reading Ordinances.

RECOMMENDED ACTION: Adopt the Ordinances.

## **II. CONSENT PLANNING AGENDA ITEMS**

NOTICE: Public hearing on planning items is conducted by the MAPC under provisions of State law. Adopted policy is that additional hearing on zoning applications will not be conducted by the City Council unless a statement alleging (1) unfair hearing before the MAPC, or (2) alleging new facts or evidence has been filed with the City Clerk by 5p.m. on the Wednesday preceding this meeting. The Council will determine from the written statement whether to return the matter to the MAPC for rehearing.

14. \*SUB2012-00001 -- Plat of Woods North 3rd Addition located on the southwest corner of 29th Street North and 127th Street East. (District II)

RECOMMENDED ACTION: Approve the documents and plat, authorize the necessary signatures and adopt the Resolutions.

15. \*ZON2006-00008 – Extension of time to complete the platting requirement for a zone change from SF-5 Single-Family Residential (“SF-5”) to LC Limited Commercial (“LC”) and GO General Office (“GO”); generally located on the northeast corner of 29th Street North & 119th Street West, associated with CUP2006-07, DP296. (District V)

RECOMMENDED ACTION: Approve an extension of the platting deadline to May 8, 2013.

16. \*ZON2012-00007-City amendment to Protective Overlay #221, to allow off-site signs on properties zoned GC General Commercial (“GC”); generally located on the northeast corner of 31st Street South and K-15. (District III)

RECOMMENDED ACTION: Adopt the findings of the MAPC, approve the amended Protective Overlay # 221, as recommended; and place the ordinance with the amended Protective Overlay on first reading.

17. \*ZON2012-00008 – City zone change request from SF-5 Single-family Residential (“SF-5”) to TF-3 Two-family Residential (“TF-3”) generally located northwest of the intersection of East Central Avenue and North 159th Street East. (District II)

RECOMMENDED ACTION: Adopt the findings of the MAPC and approve the zone change request, authorize the Mayor to sign the ordinance and place the ordinance on first reading (simple majority required). (An override of the Planning Commission’s recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

18. \*ZON2012-00010 – City zone change from LC Limited Commercial (“LC”) to GC General Commercial (“CG”) for a Tattoo/piercing facility; generally located west of South Seneca and north of Walker, 1227/29 S. Seneca. (District IV)

RECOMMENDED ACTION: Adopt the findings of the MAPC and approve the zone change, authorize the Mayor to sign the ordinance and place the ordinance on first reading (simple majority required). (An override of the Planning Commission’s recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

## **II. CONSENT HOUSING AGENDA ITEMS**

NOTICE: The City Council is meeting as the governing body of the Housing Authority for consideration and action on the items on this Agenda, pursuant to State law, HUD, and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

**Fern Griffith, Housing Member is also seated with the City Council.**

None

## **II. CONSENT AIRPORT AGENDA ITEMS**

NOTICE: The City Council is meeting as the governing body of the Airport Authority for consideration and action on items on this Agenda, pursuant to State law and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

### **19. \*Rental Car Concessionaires - Supplemental Agreements.**

RECOMMENDED ACTION: Approve the Supplemental Agreements and authorize the necessary signatures.

### **20. \*United Air Lines, Inc. - Supplemental Agreement No. 11.**

RECOMMENDED ACTION: Approve Supplemental Agreement No. 11 and authorize the necessary signatures.

### **21. \*ExcelAire, LLC - Lease Agreement for facility use of 1761 Airport Road, Suite 300 - Wichita Mid-Continent Airport.**

RECOMMENDED ACTION: Approve the Lease Agreement and authorize the necessary signatures.

City of Wichita  
City Council Meeting  
May 8, 2012

**TO:** Mayor and City Council

**SUBJECT:** Appeal to City Council of a Protest by Universal Oil of the Award of Group 1 Contract FB 130274 (All Council Districts)

**INITIATED BY:** Department of Public Works & Utilities

**AGENDA:** Unfinished Business

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**Recommendation:** Determine whether to reaffirm the City Council award of Group 1 of Contract FB 130274 to Crossfaith Ventures, LC.

**Background:** The Board of Bids recommended the award of Group 1 of Contract FB 130274 to Crossfaith Ventures, LC on January 23, 2012 – the bid was awarded by the City Council on January 24, 2012. Following the award, Universal Lubricants, LLC protested the bid to the Board of Bids, which unanimously reaffirmed the original recommendation. The appeal was heard by the City Council on April 17, 2012, during which time City staff and Universal Lubricants presented information to the City Council. The item was deferred until May 1, 2012.

At the meeting on May 1, 2012, the City Council considered a motion to deny the bid appeal. That motion failed, and the issue was deferred until May 8, 2012 for further action.

**Analysis:** The bid appeal continues with the City Council. Universal Lubricants had the lowest price per unit, but its proposal did not include the extended warranty required in the bid documents. Materials provided in previous meetings show potential expenses based on the quantities that are expected to be used.

**Financial Considerations:** This is a unit cost bid, so the total cost will be the price per unit multiplied by the quantity needed. That quantity is determined by the number of oil changes required to maintain warranty coverage. Additional lifecycle costs are also affected by the number of required oil changes.

**Goal Impact:** This formal bid will support the “Ensure Efficient Infrastructure” goal by securing the desired engine protection for heavy use City passenger vehicles.

**Legal Considerations:** The Law Department, through the Deputy assigned to provide services to the Purchasing Division of the Finance Department, has assisted City staff in the proper handling of this bid protest. As dictated by ethical considerations, the City Attorney, who has not participated in the Board of Bids decisions being reviewed, will be available to assist the City Council with procedural matters in hearing this protest.

**Recommendation/Action:** It is recommended that the City Council make a final determination on its prior award of Group 1 of Contract FB 130274 to Crossfaith Ventures, LC.

City of Wichita  
City Council Meeting  
May 8, 2012

**TO:** Mayor and City Council

**SUBJECT:** Petitions for Street Paving in Meadowland Addition (north of Kellogg, west of 143rd Street East) (District II)

**INITIATED BY:** Department of Public Works & Utilities

**AGENDA:** Unfinished Business

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**Recommendation:** Approve the petitions.

**Background:** On March 19, 2002 and May 14, 2002, the City Council approved petitions to construct street paving in Meadowland Addition. Some of the street names within the improvement district have changed. The developer has submitted new petitions to update the improvement district description. The signature on the petitions represents 100% of the improvement district.

**Analysis:** The projects will provide paving improvements for a new commercial development located north of Kellogg, west of 143rd Street East.

**Financial Considerations:** The project budget of \$3,248,000 is unaffected.

**Goal Impact:** These projects address the Efficient Infrastructure goal by providing paving improvements for a new commercial development.

**Legal Considerations:** The Law Department has approved the petitions and resolutions as to form.

**Recommendation/Action:** It is recommended that the City Council approve the petitions, adopt the resolutions, and authorize the necessary signatures.

**Attachments:** Map, petitions and resolutions.



First Published in the Wichita Eagle on May 11, 2012

**RESOLUTION NO. 12-091**

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTING PAVEMENT IMPROVEMENTS TO INCLUDE FOUR LANE PAVEMENT IMPROVEMENTS WITH CURB AND GUTTER FOR **143RD STREET EAST FROM KELLOGG TO THE NORTH LINE OF MEADOWLAND ADDITION, INCLUDING SOUTHBOUND DUAL TURN LANES AT KELLOGG; A LEFT TURN LANE NORTHBOUND AT LEWIS; DUAL LEFT TURN LANES NORTHBOUND AT WILLOW BROOK; A LEFT TURN LANE SOUTHBOUND AT WILLOWBROOK; A LEFT TURN LANE WESTBOUND ON WILLOWBROOK; AND TRAFFIC SIGNALIZATION SYSTEM AT WILLOWBROOK AND 143RD STREET EAST (NORTH OF KELLOGG, EAST OF 127TH STREET EAST) 472-83535** IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF AUTHORIZING CONSTRUCTING PAVEMENT IMPROVEMENTS TO INCLUDE FOUR LANE PAVEMENT IMPROVEMENTS WITH CURB AND GUTTER FOR **143RD STREET EAST FROM KELLOGG TO THE NORTH LINE OF MEADOWLAND ADDITION, INCLUDING SOUTHBOUND DUAL TURN LANES AT KELLOGG; A LEFT TURN LANE NORTHBOUND AT LEWIS; DUAL LEFT TURN LANES NORTHBOUND AT WILLOW BROOK; A LEFT TURN LANE SOUTHBOUND AT WILLOWBROOK; A LEFT TURN LANE WESTBOUND ON WILLOWBROOK; AND TRAFFIC SIGNALIZATION SYSTEM AT WILLOWBROOK AND 143RD STREET EAST (NORTH OF KELLOGG, EAST OF 127TH STREET EAST) 472-83535** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution No. **02-235** adopted on **May 14, 2002** is hereby rescinded.

SECTION 2. That it is necessary and in the public interest to authorize to construct pavement improvements to include four lane pavement improvements with curb and gutter for **143rd Street East from Kellogg to the north line of Meadowland Addition, including southbound dual turn lanes at Kellogg; a left turn lane northbound at Lewis; dual left turn lanes northbound at Willowbrook; a left turn lane southbound at Willowbrook; a left turn lane westbound on Willowbrook; and traffic signalization system at Willowbrook and 143rd Street East (north of Kellogg, east of 127th Street East) 472-83535** Said pavement shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 3. That the cost of said improvements provided for in Section 2 hereof is estimated to **Six Hundred Ninety-Four Thousand Dollars (\$694,000)** exclusive of the cost of interest on borrowed money, with **100** percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after **April 1, 2012**, exclusive of the costs of temporary financing.

SECTION 4. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

**MEADOWLAND ADDITION**

Lots 1 and 2, Block A  
Lots 1 and 2, Block B  
Lots 1 through 6, Block C  
Lots 1 through 4, Block D

SECTION 5. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a **fractional** basis.

That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis: Lots 1 and 2, Block D, MEADOWLAND ADDITION, shall each pay 1/30 of the total cost of the improvements, Lots 1 and 2, Block A, Lots 1 and 2, Block B, Lots 1 and 2, Block D, Lots 4, 5, and 6, Block C, and Lots 3 and 4, Block D, MEADOWLAND ADDITION, shall each pay 2/30 of the total cost of the improvements, and Lot 3, Block C, MEADOWLAND ADDITION, shall each pay 6/30 of the total cost of the improvements.

Except when driveways are requested to serve a particular tract, lot or parcel, the cost of said driveway shall be in addition to the assessment to said tract, lot, or parcel and shall be in addition to the assessment for other improvements. Where the ownership of a single lot or tract is or may be divided into two or more parcels, the assessment to the lot or tract so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 6. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 7. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 8. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 9. Be it further resolved that the above-described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 10. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 8th day of May, 2012.

\_\_\_\_\_  
CARL BREWER, MAYOR

ATTEST:

\_\_\_\_\_  
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
GARY E. REBENSTORF, DIRECTOR OF LAW

First Published in the Wichita Eagle on May 11, 2012

**RESOLUTION NO. 12-092**

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING PAVEMENT ON SPRING HOLLOW AND MORNINGSIDE FROM THE NORTH LINE OF WILLOWBROOK TO THE WEST LINE OF 143RD STREET EAST, ON WILLOWBROOK FROM THE WEST LINE OF SPRING HOLLOW, EAST TO THE WEST LINE OF LOT 3, BLOCK C, AND ON SPRING HOLLOW COURT FROM THE WEST LINE OF SPRING HOLLOW, WEST TO AND INCLUDING THE CUL-DE-SAC (NORTH OF KELLOGG, EAST OF 127TH STREET EAST) 472-83520 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF AUTHORIZING CONSTRUCTING PAVEMENT ON SPRING HOLLOW AND MORNINGSIDE FROM THE NORTH LINE OF WILLOWBROOK TO THE WEST LINE OF 143RD STREET EAST, ON WILLOWBROOK FROM THE WEST LINE OF SPRING HOLLOW, EAST TO THE WEST LINE OF LOT 3, BLOCK C, AND ON SPRING HOLLOW COURT FROM THE WEST LINE OF SPRING HOLLOW, WEST TO AND INCLUDING THE CUL-DE-SAC (NORTH OF KELLOGG, EAST OF 127TH STREET EAST) 472-83520 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution No. 02-169 adopted on March 19, 2002 is hereby rescinded.

SECTION 2. That it is necessary and in the public interest to authorize constructing pavement on Spring Hollow and Morningside from the north line of Willowbrook to the west line of 143rd Street East, on Willowbrook from the west line of Spring Hollow, east to the west line of Lot 3, Block C, and on Spring Hollow Court from the west line of Spring Hollow, west to and including the cul-de-sac (north of Kellogg, east of 127th Street East) 472-83520 Said pavement shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 3. That the cost of said improvements provided for in Section 2 hereof is estimated to **Eight Hundred Forty-Six Thousand Dollars (\$846,000)** exclusive of the cost of interest on borrowed money, with **100** percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after **April 1, 2012**, exclusive of the costs of temporary financing.

SECTION 4. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

**MEADOWLAND ADDITION**

Lot 1, and Lots 3 through 6, Block C

Lots 1 through 4, Block D

SECTION 5. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a **fractional** basis.

That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis: Lot 1 and Lots 4 through 6, Block C, and Lots 1 and 2, Block D, MEADOWLAND ADDITION, shall each pay 1/14 of the total cost of the improvements, and Lot 3, Block C, MEADOWLAND ADDITION, shall pay 2/14 of the total cost of the improvements, and Lots 3 and 4, Block D, MEADOWLAND ADDITION, shall each pay 3/14 of the total cost of the improvements.

Except when driveways are requested to serve a particular tract, lot or parcel, the cost of said driveway shall be in addition to the assessment to said tract, lot, or parcel and shall be in addition to the assessment for other improvements. Where the ownership of a single lot or tract is or may be divided into two or more parcels, the assessment to the lot or tract so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 6. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 7. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 8. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 9. Be it further resolved that the above-described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 10. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 8th day of May, 2012.

\_\_\_\_\_  
CARL BREWER, MAYOR

ATTEST:

\_\_\_\_\_  
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
GARY E. REBENSTORF, DIRECTOR OF LAW

First Published in the Wichita Eagle on May 11, 2012

**RESOLUTION NO. 12-093**

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING PAVEMENT ON **WILLOWBROOK CIRCLE** FROM THE WEST LINE OF SPRING HOLLOW, WEST TO AND INCLUDING THE CUL-DE-SAC (NORTH OF KELLOGG, EAST OF 127TH STREET EAST) 472-83521 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF AUTHORIZING CONSTRUCTING PAVEMENT ON **WILLOWBROOK CIRCLE** FROM THE WEST LINE OF SPRING HOLLOW, WEST TO AND INCLUDING THE CUL-DE-SAC (NORTH OF KELLOGG, EAST OF 127TH STREET EAST) 472-83521 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution No. 02-170 adopted on March 19, 2002 is hereby rescinded.

SECTION 2. That it is necessary and in the public interest to authorize constructing pavement on **Willowbrook Circle** from the west line of Spring Hollow, west to and including the cul-de-sac (north of Kellogg, east of 127th Street East) 472-83521 Said pavement shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 3. That the cost of said improvements provided for in Section 2 hereof is estimated to **One Million Forty-Two Thousand Dollars (\$1,042,000)** exclusive of the cost of interest on borrowed money, with **100** percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after **April 1, 2012**, exclusive of the costs of temporary financing.

SECTION 4. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

**MEADOWLAND ADDITION**  
Lots 5 through 11, Block D

SECTION 5. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a **fractional** basis.

That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis: Lots 5 through 9, Block D, MEADOWLAND ADDITION, shall each pay 1/10 of the total cost of the improvements, and Lot 10, Block D, MEADOWLAND ADDITION, shall pay 3/10 of the total cost of the improvements, and Lot 11, Block D, MEADOWLAND ADDITION, shall pay 2/10 of the total cost of the improvements.

Except when driveways are requested to serve a particular tract, lot or parcel, the cost of said driveway shall be in addition to the assessment to said tract, lot, or parcel and shall be in addition to the assessment for other improvements. Where the ownership of a single lot or tract is or may be divided into two or more parcels, the assessment to the lot or tract so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 6. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 7. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 8. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 9. Be it further resolved that the above-described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 10. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.



PASSED by the governing body of the City of Wichita, Kansas, this 8th day of May, 2012.

\_\_\_\_\_  
CARL BREWER, MAYOR

ATTEST:

\_\_\_\_\_  
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
GARY E. REBENSTORF, DIRECTOR OF LAW

First Published in the Wichita Eagle on May 11, 2012

**RESOLUTION NO. 12-094**

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING PAVEMENT ON **WILLOWBROOK** FROM THE WEST LINE OF LOT 3, BLOCK C, TO THE WEST LINE OF 143RD STREET EAST, AND ON **LEWIS** FROM THE EASTERLY LINE OF WILLOWBROOK, EAST TO THE WEST LINE OF 143RD STREET EAST (NORTH OF KELLOGG, EAST OF 127TH STREET EAST) 472-83523 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF AUTHORIZING CONSTRUCTING PAVEMENT ON **WILLOWBROOK** FROM THE WEST LINE OF LOT 3, BLOCK C, TO THE WEST LINE OF 143RD STREET EAST, AND ON **LEWIS** FROM THE EASTERLY LINE OF WILLOWBROOK, EAST TO THE WEST LINE OF 143RD STREET EAST (NORTH OF KELLOGG, EAST OF 127TH STREET EAST) 472-83523 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution No. 02-171 adopted on March 19, 2002 is hereby rescinded.

SECTION 2. That it is necessary and in the public interest to authorize constructing pavement on **Willowbrook** from the west line of Lot 3, Block C, to the west line of 143rd Street East, and on **Lewis** from the easterly line of Willowbrook, east to the west line of 143rd Street East (north of Kellogg, east of 127th Street East) 472-83523 Said pavement shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 3. That the cost of said improvements provided for in Section 2 hereof is estimated to **Six Hundred Sixty-Six Thousand Dollars (\$666,000)** exclusive of the cost of interest on borrowed money, with **100** percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after **April 1, 2012**, exclusive of the costs of temporary financing.

SECTION 4. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

**MEADOWLAND ADDITION**

Lot 1 and 2, Block A

Lots 1 and 2, Block B

Lots 2 and 3, Block C

SECTION 5. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a **fractional** basis.

That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis: Lots 1 and 2, Block A, Lots 1 and 2, Block G, and Lot 2, Block C, MEADOWLAND ADDITION, shall each pay 1/8 of the total cost of the improvements, and Lot 3, Block C, MEADOWLAND ADDITION, shall pay 3/8 of the total cost of the improvements.

Except when driveways are requested to serve a particular tract, lot or parcel, the cost of said driveway shall be in addition to the assessment to said tract, lot, or parcel and shall be in addition to the assessment for other improvements. Where the ownership of a single lot or tract is or may be divided into two or more parcels, the assessment to the lot or tract so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 6. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 7. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 8. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 9. Be it further resolved that the above-described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 10. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 8th day of May, 2012.

\_\_\_\_\_  
CARL BREWER, MAYOR

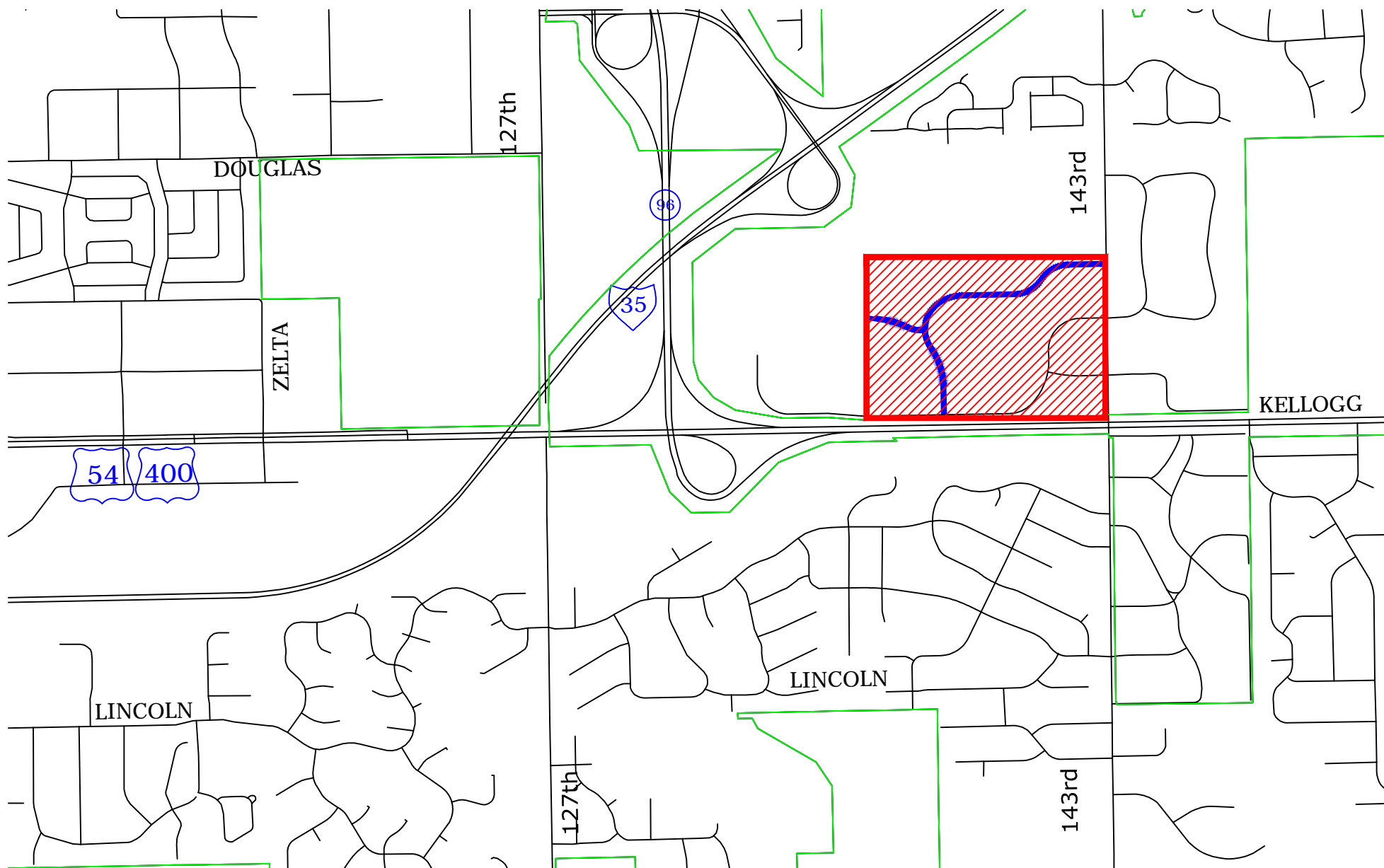
ATTEST:

\_\_\_\_\_  
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
GARY E. REBENSTORF, DIRECTOR OF LAW



**City of Wichita**  
**City Council Meeting**  
May 8, 2012

**TO:** Mayor and City Council

**SUBJECT:** Quarterly Financial Report for the Quarter Ending March 31, 2012

**INITIATED BY:** Department of Finance

**AGENDA:** New Business

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**Recommendation:** Receive and file the quarterly financial report.

**Background:** The Finance Department prepares quarterly unaudited financial reports to monitor and review the financial activities of the operating and capital funds. The report is presented to provide the City Council and citizens with information that will assist in making informed decisions. The report is available on the City's web-site. Citizens may obtain a printed copy by contacting the Department of Finance at 268-4651.

**Analysis:** Comparisons of budgeted amounts to actual revenue and expenditures are provided for each operating fund. In addition, financial statements prepared on an accrual basis are presented for enterprise funds, consistent with requirements of revenue bond covenants. The quarterly financial report does not contain all the transactions and adjustments that will be reflected in the Comprehensive Annual Financial Report for the fiscal year.

Financial highlights are summarized beginning on page iii, with financial statements beginning on page 1. Information supplementary to the financial statements begins on page 59, including information on the performance of invested funds, the City's bonded indebtedness relative to the legal debt limitations, capital projects currently underway, tax abatements, the status of the Debt Service fund relative to any debt service payments due from the tax increment financing districts, and a quarterly summary of disadvantaged and emerging business activity.

**Financial Considerations:** The Director of Finance will provide a financial overview at the City Council meeting.

**Goal Impact:** The Internal Perspective is advanced with the Quarterly Financial Report providing information on the financial condition of the City to the City Council, to the citizens of Wichita and to investors. In addition, the report demonstrates budgetary compliance with applicable laws and ordinances for the reporting year.

**Legal Considerations:** None.

**Recommendations/Actions:** It is recommended that the City Council receive and file the Quarterly Financial Report for the quarter ended March 31, 2012.

**CITY OF WICHITA**  
**City Council Meeting**  
**May 8, 2012**

**TO:** Mayor and City Council Members

**SUBJECT:** Rename Kingsbury Park to Crystal Prairie Lake Park (District V)

**INITIATED BY:** Department of Park and Recreation

**AGENDA:** New Business

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**Recommendation:** Rename Kingsbury Park to Crystal Prairie Lake Park.

**Background:** In 1987, the City acquired a 460-acre tract of land from the Kingsbury family to the north and west of the Brooks Landfill site. It was originally intended for landfill expansion or buffer, but on August, 22, 2000, the City Council took action to retain the land for public purposes and authorized staff to pursue mining operations on the site with any proceeds for the sale of the materials to be used for park improvements. City Council approved the lease agreement with Quik Sand, Inc. on October 19, 2004.

On December 14, 2004, the City Council approved an initial Master Plan for park development by the architectural firm Wilson Darnell Mann. June 3, 2008, RDG Planning and Design was selected to produce more detailed design plans. RDG is currently working with Cornejo Materials, Inc. to stockpile topsoil and mine aggregate material from the site in a manner to facilitate the creation of an aquifer-fed lake surrounded by areas of restored native habitat.

**Analysis:** Once completed, this site will become Wichita's premier regional park, including boating, swimming, fishing and other activities. In order to better identify the park as a recreational aquatic facility and promote the spirit of the site, the Board of Park Commissioners on March 19, 2012, recommended renaming the park Crystal Prairie Lake Park. This name will promote the new lake as well as acknowledge the sustainable native landscape. Many long-time Wichitans may also recognize the reference to the former Crystal Lake, once a popular public beach with clear water located across the river, now a private residential area.

Policy 13, section 7, of City Council identifies the requirements for naming public facilities "...if not a person's name, must be based on the function of the facility and the image the name would project." The Board of Park Commissioners believes that the name "Crystal Prairie Lake Park" will fulfill this requirement.

**Financial Considerations:** There will be minimal financial impact of renaming the site.

**Goal Impact:** Development and appropriate naming of this future Regional Park will improve the Quality of Life for Wichita and the surrounding area.

**Legal Considerations:** The Law Department has reviewed and approved the action taken by the Board of Park Commissioners, determining that it is consistent with the provisions of City Council Policy 13, as naming advisory committee for park and recreation areas.

**Recommendation/Action:** It is recommended that the City Council authorize the renaming of Kingsbury Park to Crystal Prairie Lake Park.



**City of Wichita  
City Council Meeting  
May 8, 2012**

**TO:** Mayor and City Council

**SUBJECT:** Sidewalk Café Application Requirements (All Districts)

**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA:** New Business

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**Recommendation:** Approve the recommended amendments.

**Background:** On November 20, 2001, the City Council approved Sidewalk Café Application Requirements that allow permitted businesses to operate dining and drinking establishments on public right-of-way. The approved requirements established the permitting procedures and the design standards for tables, chairs, umbrellas, fences, and other street furniture located in public right-of-way. The design standards require black metal furniture and fencing and solid-color umbrellas with no advertising.

The Old Town Association (OTA), which represents 11 of the 15 businesses with sidewalk café permits, approached City staff and requested that the City review the current requirements. On March 6, 2012, the OTA hosted a stakeholder input meeting regarding the sidewalk café requirements. The meeting was attended by 12 businesses with sidewalk cafes and City staff. A summary of the discussion at this meeting including the changes requested by the businesses is attached. In particular, the businesses requested more design flexibility for furniture and fences in order to create brand identity and also requested permission to use multi-color umbrellas with advertising.

City staff responsible for approving sidewalk café permits reviewed the changes requested by the businesses, agreed with many of the requests, and suggested that others be modified or not changed. The input from City staff responsible for approving permits was discussed by the City Manager's Development Coordinating Committee (DCC), which recommended amendments to the current requirements (attached). The amendments recommended by the DCC were considered by the OTA at their meeting on March 28, 2012. The OTA endorsed the DCC recommendation and distributed it to the businesses with sidewalk café permits for comment. No additional comments were received from businesses.

On April 18, 2012, the Design Council considered the attached recommended amendments to the Sidewalk Café Application Requirements. The Design Council supported the recommended amendments with two exceptions. First, the Design Council did not support permitting advertising on umbrellas because such umbrellas are unattractive and the advertising will create a "beer garden" atmosphere that will detract from the high aesthetic standard set by the current design standards. Second, the Design Council did not support allowing pickets on fencing to be as far as 12 inches apart as it could be hazard for children who might get their head stuck between the pickets.

**Analysis:** The recommended amendments would provide businesses with greater design flexibility by permitting additional colors and materials for furniture. The focus of the recommended amendments to the furniture requirements is design consistency at each individual business and maintaining furniture in a state of good repair.

The recommended amendments would permit businesses to have multi-color umbrellas with advertising. Businesses indicated that they can receive umbrellas with advertising for free or at a low cost and that the

current requirements for solid color umbrellas with no advertising requires them to purchase costly umbrellas. Because of the additional expense, businesses cannot maintain their umbrellas in top condition like they could if they were able to replace the umbrellas more frequently for free or at a low cost.

The recommended amendments would typically require black metal fencing be used as a diverter but would establish a public hearing process to consider other diverter designs that are consistent with the building architecture and surroundings. Fence pickets would be allowed to be spaced as far apart as 12 inches when at grade or next to a drop-off of 30 inches or less, which complies with the safety requirements of the building code while also helping to prevent unauthorized access to areas where alcohol is served.

The recommended amendments would establish a public hearing process to consider various types of awnings. The recommended amendments clarify that a current code provision applies to sidewalk cafes that requires additional restrooms and parking be provided, if necessary, when seating is increased by more than 16 seats. The recommended amendments would require businesses to maintain on file with the City a current site plan and specifications and warranty for their furniture.

The recommended amendments are consistent with the Downtown Wichita Streetscape Design Guidelines, which the City Council approved on April 20, 2010. The Streetscape Design Guidelines include a policy recommendation that existing requirements for sidewalk cafes be reviewed for modifications that would encourage and facilitate more sidewalk cafes.

**Financial Considerations:** Businesses that obtain sidewalk café permits currently pay an annual permit fee per location of \$36 per seat with a minimum annual permit fee of \$100 and a maximum fee of \$360. The recommended amendments would keep the fee per seat and minimum annual permit fee the same but would eliminate the maximum annual permit fee.

**Goal Impact:** The recommended amendments also will help achieve the goals of Promoting Economic Vitality, Creating Vibrant Neighborhoods, and Ensuring Efficient Infrastructure.

**Legal Considerations:** Section 10.04.131(c) of the Code of the City of Wichita authorizes the City Engineer to administratively establish the requirements for sidewalk cafes. However, since not all aspects of the recommended amendments were supported by the Design Council, City Council approval of the amendments is sought in order that the decision can be reached through a public hearing process that gives all stakeholders an opportunity for final input.

**Recommendation/Actions:** It is recommended that the City Council approve the recommended amendments to the Sidewalk Café Application Requirements and authorize staff to implement.

**Attachments:** Old Town Association Meeting Summary  
Development Coordinating Committee Summary  
Sidewalk Café Application Requirements – Recommended Amendments

**Development Coordinating Committee Summary**  
**Sidewalk Café Permit Requirements**  
**March 22, 2012**

**Old Town request for City to Modify Sidewalk Café Permit Requirements:**

The Old Town Association (OTA) hosted a meeting of restaurants owners and operators to provide City staff with requested changes to the existing sidewalk café permits. The request was reviewed by John D'Angelo (City Arts/Design Council), Kathy Morgan (Historic Preservation), Linda Firsching (Engineering) and Scott Knebel (Planning) and their comments were provided to the Development Coordinating Committee (DCC). DCC reviewed the requested changes to help provide a staff recommendation to the OTA and Design Council for ultimate approval.

**Summary:**

Staff was receptive to most of the requested changes. Certain aspects of some requests were discussed in depth. The primary concerns expressed were for consistency, safety, an appearance. General consensus was that flexibility on requirements may cause additional scrutiny for approval. The current process involves approval by Engineering, Fire and OCI, but the additional flexibility may require additional approval.

**Furniture:**

- Ok with most requests except second bullet point. There are concerns over the type and size of the other furniture mentioned. Fire pits will be very site specific and create safety hazards.
- Colors are ok, but material should durable and designed for outdoor use and not be plastic.
- Furniture within the outdoor area of individual restaurants needs to be consistent.

**Umbrellas:**

- Ok with list but want images and wording to be restricted to services rendered on premises. This is similar to existing advertising code.

**Diverter:**

- Spacing wider than 4", but no greater than 12", may be allowed where the fencing is not more than 30" above the ground.
  - o 4" maximum is code for heights over 30".
  - o Maximum width should be narrow enough to control people from sneaking in or out.
- Black wrought iron is recommended due to the aesthetic affect of blending in with the environment. Any variations should be limited and consistent with building architecture and surroundings.

**Other Issues:**

- Awnings are ok but enclosures should be limited, and preference is that awnings be attached only to the building rather than having supports attached to the sidewalk.
  - o Awnings, trellises, etc. require architectural details for anchoring and height.
  - o Enclosures may increase capacity which will affect restroom and parking requirements.

**Old Town Association Meeting Summary**  
**Sidewalk Café Permit Requirements**  
**March 6, 2012**

**Restaurants Represented**

Brick Street Café, Café Moderne, Heroes, Larkspur, Luca, Morts, Oeno, Old Chicago, Pump House, River City Brewery, Sabor, and Warren Theater

Overall message is that the City's requirements for sidewalk café furnishings lead to a monotonous, boring environment and do not allow the various restaurants to differentiate themselves through uniqueness and brand identity. The requested changes to the requirements along with a description of those parts of the requirements that are okay are listed below:

**Furniture**

- Want to be able to use colors and materials other than black iron or steel (Heroes, Luca, Old Chicago, and Sabor cited as examples where this has already been done)
- Want to be able to use lounge chairs, couches, love seats, fire pits, etc. that are not stackable or easily stored
- Want to be able to use seat cushions
- Okay with limitations on color selection, just not black only
- Okay with requirements for durable outdoor furniture and not permitting plastic

**Umbrellas**

- Want to be able to use multi-colored umbrellas
- Want to be able to use umbrellas with advertising, especially since they can get these for low or no cost from vendors
- Okay with restrictions on wording and images on umbrellas
- Okay with limitations on color selection, just not solid coloring
- Okay with durable, fire-proof requirements

**Diverters**

- Want to be able to use colors and materials other than black wrought iron or galvanized steel (wood with vines and glass panels cited as examples)
- Want to be able to use diverters taller than 42" (Pump House and Doc Howards cited as examples where this has already been done)
- Want to be able to use greater spacing between pickets than four inches
- Okay with limitations on colors and materials, just not all black metal
- Okay with requirement for professional installation by a fence company

### **Other Issues**

- Focus of requirements should be on health and safety, including alcoholic beverage control
- Requirements should focus less on color and style and more on requiring a “state of good repair”
- If limitations on color and style are needed, they should focus consistency with building architecture rather than requiring all cafes to be the same
- Potted plants and landscaping should be permitted
- Okay with requirements intended to ensure that the improvements are not permanent and easily removed from the right-of-way
- That said, there is some interest in pursuing the ability to enclose the sidewalk cafes to make them “all weather” through the use of retractable awnings, trellises, screening, or other enclosures

**City Engineer's Office**  
**Department of Public Works and Utilities**  
**City of Wichita**  
**455 N. Main Street**  
**Wichita, KS 67202**

## **SIDEWALK CAFÉ APPLICATION REQUIREMENTS**

**Applicants must submit the following with their application:**

1. A site plan showing:
  - Entrance to business and other building entrances.
  - Property lines, sidewalk width and all surface obstructions within 15 feet of occupied area (e.g. fire hydrants, streetlights, parking meters, water meters, sewer manholes/cleanouts, street tree wells, etc.)
  - Width of occupied area, approximate location of tables and chairs (and other items including portable heaters, special lighting, planters, sound systems, etc.) and their relative proximity to the six-foot pedestrian clearance.
  - Location of diverters.
  - If street closure is required, applicant must obtain a Street Closure Permit from the City Engineer's Office.
2. Product specifications for all street furniture, including color, materials, finishes, and weight; photographs or other illustrations; and evidence of a multi-year, commercial-use warranty.
3. Advance payment of an annual permit fee equal to \$36 per seat, per location. The minimum annual permit fee per location is \$100.00 ~~and the maximum is \$360.00.~~
- 2.4. If the occupied area contains more than 16 seats, documentation must be provided that sufficient restroom occupancy is provided at the business and that parking requirements are met.
- 3.5. Provide evidence of liability insurance for a minimum coverage of \$500,000, naming the City of Wichita as additional insured. The insurance coverage must be in force for the duration of the permit.
- 4.6. Provide written evidence of approval of permit application by the businesses adjoining the property.
- 5.7. Advance payment of the cost of the publication or the Public Notice in the official City newspaper as estimated by the City Clerk. This advance payment and the actual cost must be reconciled with additional payment from the applicant prior to the issuance of the Permit.

## Application Approval Process

- Except for applications requesting special consideration of diverters or awnings, Once it is determined that an applicant has met all of the basic requirements, The City Engineer's Office will issue a Public Notice, informing the public that a permit that would allow the subject business entity to place tables and chairs in the sidewalk area is about to be issued.
- The applicant will be required to post a copy of the Public Notice in a readily visible location on the frontage of the applying business establishment for five calendar days.
- If there are no objections from the public, the application will be approved and a Sidewalk Cafe Permit will be issued.
- If there are objections from the public, a Public Hearing will be scheduled before the City Engineer or his designee. Approval or denial of the application will be determined at the Public Hearing.
- For applications requesting special consideration of diverters or awnings, a Public Hearing will be scheduled once it is determined that an applicant has met all of the basic requirements. The Public Hearing will be before the City Engineer or his designee. Approval or denial of the application will be determined at the Public Hearing.
- In the event of a denial, the applicant may appeal to the City Council within 15 calendar days of the decision.
- When a permit is issued, a copy must be visibly displayed at the subject business establishment.

## Responsibilities of Permit Holders

In order to maintain the Sidewalk Cafe Permit, the permit holder must comply with all applicable rules and regulations including the following:

1. Permit Holder is responsible for making sure that all activities on the sidewalk stay within the approved area.
2. Food trays or carts, receptacles for dirty dishes, etc. shall not be placed or stored on any portion of the sidewalk or roadway area of a public street or right-of-way.
3. Only approved diverters, which may not have protruding legs or supports, shall be used at all times.
4. Diverters, tables, chairs and other street furniture in the sidewalk area must be maintained in a state of good repair and kept free of advertising (except umbrellas, which may advertise products or services sold on-site), litter and other debris at all times.
5. Permit Holder must provide at least one durable trash receptacle within the permit area at all times.
6. Tables, chairs, diverters, and other items may remain on the sidewalk when the business will be open the following day. The items must be promptly removed from the sidewalk at the end of each business day if the business will be closed the following day.
7. Permit Holder must sweep the sidewalk daily (or more often if warranted) and keep the sidewalk and gutter clean from debris at all times.

8. Permit Holder must keep in force the liability insurance in which the City of Wichita is named as additional insured as long as the permit is in effect.
9. Permit holders must display a copy of the permit visibly for public view during business hours.
- ~~9.~~10. All Permit Holders must maintain on file with the City Engineers Office a current site plan and current product specifications and warranty for all street furniture. Substantial changes, as determined by the City Engineer, to the approved site plan or product specifications will require the Permit Holder to submit and receive approval of a new application.
- ~~10.~~11. All Permit Holders must request permit renewal not later than 30 days prior to the expiration date of the revocable Minor Street Permit.

### **Compliance vs. Penalties**

The City and business owners must work together to maintain a balance between the City's obligation to protect the safety of the public and business prosperity. It would be ideal to have the full cooperation of the participating businesses. The issuance of a Sidewalk Café Permit is a non-assignable personal privilege for use of City property. The applicant agrees that it does not intend to acquire nor will it claim any property right arising out of its application for or exercise of a Sidewalk Café Permit. The applicant understands that to be fair to all, permits will be administratively revoked for businesses that are found to be non-compliant with the provisions of this permit. This revocation may be appealed to the City Council within 10 days of the revocation. In order to reinstate the permit, the non-compliance causing the revocation must be cured. The following fee schedule will be enforced.

- \$100 for first offense
- \$200 for the second offense
- \$300 for the third offense
- Non-reinstatement of Permit for a third violation within the immediately preceding 12 month period.



# Sidewalk Café Standards and Procedures

In order to encourage outdoor dining on a public sidewalk where patrons may consume food and/or beverages (alcoholic and non-alcoholic) provided by an abutting food service establishment, the City of Wichita is establishing the following guidelines for all business owners who wish to obtain a revocable Sidewalk Café Permit to place tables and chairs on the sidewalks in front of their restaurant or café.

These regulations do not apply to outdoor dining on private property.

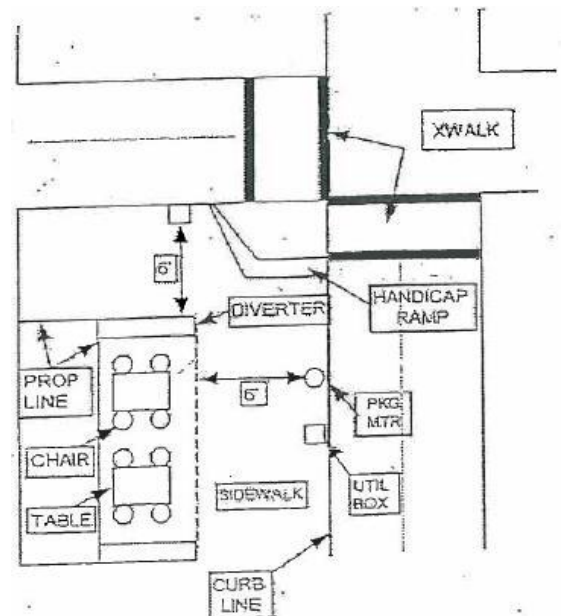
- Tables and chairs can be placed only on the sidewalk in front of the applicant's place of business.
- The sidewalk in front of the business must be wide enough to support through pedestrian access. such that a minimum of six feet of pedestrian clearance can be established is preferred, but a minimum of three feet of pedestrian clearance may be approved in circumstances where space for the sidewalk café is severely limited by overall sidewalk width. This ~~six feet of pedestrian~~ clearance must be free of all obstacles.
- Placement of tables and chairs on the sidewalk must not in any way interfere with curb ramps, access to the building, driveways or access to any fire escape.
- Placement of tables and chairs on the sidewalk must conform to all federal, state, and local laws and regulations.
- Businesses serving food and alcohol must use and install fencing/diversion materials approved by the city as diverters. Businesses serving food only may use planters or other materials approved by the City to delineate the sidewalk café.

## Design Guidelines

Placement of tables and chairs on the sidewalk must include the installation of diverters at each end to guide pedestrians away from the occupied area of the sidewalk.

Street furniture must conform to the following design guidelines:

- All diverters, tables, chairs and other furniture must be approved on criteria set by the City of Wichita to ensure functionality, serviceability and aesthetic congruence with the surrounding architecture.
- Diverters must be flush with the building, placed at an angle of approximately 90 degrees to the building facade.



## **Street Furniture Criteria**

- All furniture shall be professional-grade, designed specifically for outdoor use and include a multi-year, commercial use warranty.
- Permitted furniture colors are black and stainless. Earth-tone colors may be permitted when supported by documentation provided by the applicant demonstrating that the furniture is consistent with and tied to the business' brand identity or the building's architecture.
- All furniture at an individual business must maintain design consistency.
- Umbrellas must be durable and fireproof. Vivid colors on umbrellas are limited to accent colors. Advertising is permitted on umbrellas, but is restricted to products or services sold on site.
- Diverterers are permitted to be black wrought iron, galvanized steel with black powder coating or black galvanized tubular steel. Diverterers constructed of other materials or colors may be permitted through a Public Hearing process when supported by documentation provided by the applicant demonstrating that the diverter design is consistent with and tied to the building's architecture and the surrounding area.
- Diverterers must be at least 42" high, have blunt pickets at the top, contain top and bottom rails and meet OHSA requirements. When at grade or adjacent to a drop-off of less than 30 inches, picket spacing shall be no greater than 12".
- Diverterers must be professionally installed by a fence company in a manner such that the diverterers can be removed without causing significant damage to the sidewalk.
- Awnings over the sidewalk café are permitted when attached only to the building walls and must be consistent with and tied to the building's architecture and the surrounding area. Awnings with columns attached to the sidewalk may be permitted through a Public Hearing process when supported by documentation provided by the applicant demonstrating that awning cannot be attached solely to the building wall and that columns can be removed without causing significant damage to the sidewalk.

## **Application Requirements**

All applicants who can comply with all of the above guidelines are encouraged to submit an application for a permit.

**City of Wichita  
City Council Meeting  
May 8, 2012**

**TO:** Wichita Airport Authority

**SUBJECT:** Rental Car Customer Facility Charge Program  
Wichita Mid-Continent Airport

**INITIATED BY:** Department of Airports

**AGENDA:** Wichita Airport Authority (Non-Consent)

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**Recommendation:** Approve the Customer Facility Charge Program.

**Background:** The capital project authorized by the Wichita Airport Authority (Authority) in June, 2011 to provide greatly improved parking facilities on Mid-Continent Airport is currently in the design phase. Among other improvements, the project includes a parking garage that provides covered rental car ready stalls and has a customer service center lobby adjacent to the structure. Consistent with the financial feasibility plan for the parking facilities, a Customer Facility Charge (CFC) Program is proposed to offset certain costs of the parking program. A CFC is a charge imposed by the Authority upon a car rental customer arriving at the Airport and renting a vehicle. The charge is collected by the rental car companies and remitted to the Authority monthly. CFC revenues are dedicated to provide funding for financing, planning, designing, constructing, equipping, operating, and maintaining facilities on the Airport utilized by the rental car companies, rental car customers, or any other rental car program related purposes. The implementation of a CFC program is not subject to approval by any federal agency.

**Analysis:** There are now 106 U.S. airports that charge a CFC, including 42 small hubs. The CFC charge level for small hub airports such as Mid-Continent range from \$0.62 to \$6 per transaction day. A comparison of regional airports is as follows:

<b>Airport</b>	<b>CFC Rate</b>
Wichita	\$4.00 (proposed)
Kansas City	\$5.10
Tulsa	\$4.00
Oklahoma City	\$4.50

The Authority has on-airport concession agreements with seven rental car companies allowing them to operate on Mid-Continent Airport. After consultation with the rental car companies, all of the on-airport operators have signed a supplemental agreement to their current contracts that reflects their agreement to collect the CFC as included in the proposed CFC Program.

**Financial Considerations:** The CFC Program proposes a rate of \$4 per transaction day for a maximum of 14 days per rental contract. Annual revenues of approximately \$2 million are expected based on current activity levels. An effective date of July 1, 2012 is recommended in order to maximize the collections prior to the start of construction which will serve to minimize the amount of debt financing needed.

**Goal Impact:** The Airport's contribution to the Economic Vitality of Wichita is promoted through maximization of funding opportunities for capital improvements.

**Legal Considerations:** The Resolution has been approved as to form by the Law Department.

**Recommendations/Actions:** It is recommended that the Wichita Airport Authority approve the Resolution to adopt and implement a rental car Customer Facility Charge Program and authorize the Director of Airports to execute the necessary documents.

**Attachments:** Resolution.

**RESOLUTION NO. 12-098**

**A RESOLUTION OF THE WICHITA AIRPORT AUTHORITY ADOPTING AND  
IMPLEMENTING A CAR RENTAL CUSTOMER FACILITY CHARGE**

WHEREAS, the Wichita Airport Authority (“Authority”) owns and operates Wichita Mid-Continent Airport (“Airport”); and

WHEREAS, the Authority operates, maintains and develops the Airport with federal grants and user fees, under the authority of K.S.A. 3-1113 et seq. and 3-167 et seq. and certain federal laws; and

WHEREAS, growth at the Airport, including increases in air passengers and car rental customers, has placed a strain on the Airport’s public parking facilities, rental car facilities and roadways; and

WHEREAS, the Authority has conferred with the Car Rental Companies operating at the Airport regarding the need for improved facilities and services; and

WHEREAS, the Authority has now determined that it is in the best interest of the Authority to impose a Customer Facility Charge (CFC) to provide funding to finance, plan, design, construct, equip, operate and maintain facilities on the Airport utilized by the Car Rental Companies and their customers or any other rental car program related purpose.

NOW, THEREFORE, BE IT RESOLVED that the Wichita Airport Authority hereby adopts and implements a Customer Facility Charge under the following criteria:

**SECTION I.** Definitions. As used in this resolution, the following definitions apply:

- 1.1 “Airport” shall mean the Wichita Mid-Continent Airport.
- 1.2 “Authority” shall mean the Wichita Airport Authority.
- 1.3 “Car Rental Company” means a rental car company having executed a Rent A Car Services agreement for the operation of a rental car concession at the Airport. Both On-airport and Off-airport car rental companies serving the Airport are equally obligated under this resolution.
- 1.4 “Charge Effective Date” shall mean the date on which the CFC is effective as provided in Section 3.1 of this resolution.

- 1.5 “Customer Facility Charge” shall mean the charge imposed by the Authority, which is collected and remitted by a Car Rental Company, upon a car rental customer arriving at the Airport and renting a vehicle. The definition of a car rental customer is as agreed to in the Gross Receipts Defined paragraph of the Rent A Car Services agreement entered into by each Car Rental Company. The CFC shall be collected by the Car Rental Company for the benefit of the Airport, pursuant to Section III of this resolution.
- 1.6 “Director” shall mean the Director of Airports for the Wichita Airport Authority.
- 1.7 “On-airport” shall mean a car rental company that is located at, upon or within Mid-Continent Airport.
- 1.8 “Off-airport” shall mean a car rental company that is not located at Mid-Continent Airport but which does business at the Airport.
- 1.9 “Rental Car Facilities” shall mean any facilities used by Car Rental Companies and their customers together with all associated infrastructure improvements along with the operation and maintenance of such facilities or any other rental car program related purpose.
- 1.10 “Transaction day” shall mean that period of time a car is rented for twenty-four or fewer hours plus a grace period not to exceed two hours for the initial or first transaction day, and any portion of one or more additional twenty-four hour period(s) for each transaction day thereafter. If a Car Rental Company imposes a rental charge to the customer during the grace period, then such grace period shall be treated as an additional Transaction Day.

## **SECTION II. Findings and Purpose.**

- 2.1 The Authority finds that:
  - 2.1.1 The Authority owns and controls that certain airport and air navigation facility located in Sedgwick County, State of Kansas, and known as Wichita Mid-Continent Airport; and
  - 2.1.2 The Airport promotes a strong economic base for the community, assists and encourages world trade opportunities and is of valid importance to the health, safety, and welfare of the State of Kansas; and
  - 2.1.3 The operation of the Airport as a public facility attracting scheduled airline passengers who use car rental facilities at the

Airport imposes financial responsibility on the Authority for Rental Car Facilities and operations; and

- 2.1.4 The Authority will require substantial expenditure for capital investment, operation, maintenance, and development of the Rental Car Facilities to meet the future demand of customers using the Airport and its facilities; and
  - 2.1.5 It is in the Authority's best economic interest, and likewise in the interest of the car rental customers and car rental companies, that the Authority adopt a CFC program as identified in this resolution to maintain, improve and further expand the Car Rental Facilities of the Airport; and
  - 2.1.6 In establishing and implementing the CFC program, the car rental customers using the Airport should contribute to a greater degree toward the development and improvement of Rental Car Facilities; and
  - 2.1.7 The fees implemented by this resolution are reasonable for the use of the Airport and Car Rental Facilities by the general public.
- 2.2 The purpose of this resolution is to enact a CFC program consistent with the above findings and this resolution and the regulations published pursuant thereto shall be liberally construed to effectuate the purposes expressed.

### **SECTION III. Car Rental Customer Facility Charge**

- 3.1 Commencing no earlier than forty-five (45) days after the approval of this resolution and notification to the Car Rental Companies, or on such date thereafter as the CFC can be collected as determined by the Director, shall be imposed at Wichita Mid-Continent Airport, a CFC of \$4.00.
- 3.2 The Director may, however, adjust the amount of the CFC from time to time on not less than thirty (30) days notices to the Car Rental Companies to pay the costs and expenses of financing, planning, designing, constructing, equipping, operating and maintaining the Rental Car Facilities or for any other rental car program related purpose the Director deems appropriate; provided, however, the CFC shall not, without further Authority action, exceed the lesser of : (i) the highest CFC (expressed per Transaction Day) levied at any other major airport in the United States, or (ii) the amount of seven dollars and fifty cents (\$7.50) per Transaction Day, with such maximum amount to be adjusted annually based on the change in the Consumer Price Index (U.S. City Average, All Urban Consumers, All Items); and provided further, the aggregate amount to be collected by way of the CFC shall not exceed the costs to finance, plan,

design, construct, equip, operate and maintain the Rental Car Facilities or the costs of such other rental car program related purpose the Director deems appropriate.

- 3.3 The CFC authorized by this resolution shall continue until terminated by separate action of the Authority.
- 3.4 The CFC fees charged by Car Rental Companies shall be identified on a separate line on the car rental customer contract, before taxes, and shall be described as the "Facility and Operation Fee". Said CFC is not included in the definition of Gross Receipts under the Rent A Car Services agreements executed by each Car Rental Company.
- 3.5 The Director is authorized to execute the necessary documents for implementation of the CFC program on behalf of the Authority.

#### **SECTION IV. Eligible Projects**

- 4.1 The CFC shall be used to pay, or reimburse the Authority, for the costs associated with the Rental Car Facilities, and to include all cost, fees, and expenses associated with the rental car program; with the financing, planning, designing, constructing and equipping of Car Rental Facilities; or for any other rental car program related purpose the Director deems appropriate. Eligible costs for the related facilities and equipment shall include operating and maintenance costs in addition to the foregoing costs. Nothing herein shall be constructed to make fees or costs incurred in tenant improvements for space exclusively used by a Car Rental Company ineligible.

#### **SECTION V. Collections**

- 5.1 All CFC's collected by Car Rental Companies are and shall be trust funds held by the Car Rental Companies for the benefit of the Authority. Car Rental Companies and their agents hold only a possessory interest in the CFC's and no legal or equitable interest. All Car Rental Companies shall segregate, separately account for and disclose all CFC's as trust funds in their financial statements. Failure to segregate the CFC's shall not alter or eliminate their trust fund nature. The Car Rental Companies shall maintain adequate records, in full conformance with generally accepted accounting principles, which account for all CFC's charged, collected and remitted. The Director shall have the right to audit the CFC records upon reasonable notice.
- 5.2 The Car Rental Companies shall be entitled to no compensation for collection of the CFC.



- 5.3 Car Rental Companies shall collect the CFC from each car rental customer at the time payment is first made under any agreement with the customer. Car Rental Companies shall remit all CFC's on a monthly basis to the Authority together with the monthly statement of transactions and transaction days, regardless of whether or not the full amount of the CFC was actually collected from the car rental customer. The CFC's shall be remitted by the last day of the month following the month the CFC's were collected. Failure to strictly comply with this subparagraph shall be considered a material breach of the Car Rental Company's authorization to do business at the Airport.
- 5.4 Collection of the CFC shall be limited to the first fourteen (14) transaction days of any car rental customer contract, to limit the remittance by any Car Rental Company on any car rental customer contract to fourteen (14) times the CFC.

**SECTION VI. Violations.**

- 6.1 In the event any Car Rental Company violates any term of condition of this resolution, the Authority may exercise any rights or remedies allows by law or equity.

**SECTION VII. Effective Date.**

- 7.1 This Resolution shall be effective upon its adoption by the Wichita Airport Authority and publication once in the official paper.

**SECTION VIII. Savings Clause**

- 8.1 In the event any phrase, clause, sentence, paragraph, or paragraphs of this resolution is declared invalid for any reason, the remainder of this resolution shall not be invalidated, but shall remain in full force and effect, all parts of this resolution being declared separable and independent of all others. In the event that a judgment is entered, and all appeals exhausted, which judgment finds, concludes or declares this resolution is unconstitutional or is otherwise invalid, the CFC authorized by this resolution shall be suspended and terminated as of the date of declaration of unconstitutionality.

ADOPTED at Wichita, Kansas, May 8, 2012.

ATTEST:

THE WICHITA AIRPORT AUTHORITY

By \_\_\_\_\_  
Karen Sublett, City Clerk

By \_\_\_\_\_  
Carl Brewer, President

(SEAL)

By \_\_\_\_\_  
Victor D. White, Director of Airports

APPROVED AS TO FORM: \_\_\_\_\_  
Director of Law

**PRELIMINARY ESTIMATES  
FOR CITY COUNCIL MAY 8, 2012**

- a. Multi-Use Path from Garvey Park to Plainview Community Center (south of 31st Street South, east of Oliver) (87TE-0282-01/472-84932/707030/210495) Traffic to be maintained during construction using flagpersons and barricades. (District III) - \$2,200,000.00

City of Wichita  
City Council Meeting  
May 8, 2012

**TO:** Mayor and City Council

**SUBJECT:** Community Events – Intrust Bank Arena (RibFest)  
(District I)

**INITIATED BY:** Division of Arts & Cultural Services

**AGENDA:** Consent

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**Recommendation:** Approve the request for temporary street closures.

**Background:** In accordance with the Community Events procedure, the event promoter, Tenille Matzek, Intrust Bank Arena Event Coordinator is coordinating with City of Wichita staff, subject to final approval by the City Council.

**Analysis:** The following street closure requests have been submitted:

**RibFest May 14, 2012 7:00 am – May 20, 2012 12:00 am**

- Waterman Street, Washington Avenue to Emporia Avenue – westbound curbside lane.

The event promoter will arrange to remove the barricades as necessary to allow emergency vehicle access during the entire designated time period. The barricades will be removed immediately upon completion of the event.

**Financial Consideration:** The event promoter is responsible for all costs associated with the special event.

**Goal Impact:** Enhance the Quality of Life for citizens through special events and activities.

**Legal Consideration:** There are no legal considerations.

**Recommendation/Actions:** It is recommended that the City Council approve the request subject to; (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department; and (3) Securing a Certificate of Liability Insurance on file with the Community Event Coordinator.

City of Wichita  
City Council Meeting  
May 8, 2012

**TO:** Mayor and City Council

**SUBJECT:** Community Events – Intrust Bank Arena (Hank Williams Jr.)  
(District I)

**INITIATED BY:** Division of Arts & Cultural Services

**AGENDA:** Consent

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**Recommendation:** Approve the request for temporary street closures.

**Background:** In accordance with the Community Events procedure, the event promoter, Tenille Matzek, Intrust Bank Arena Event Coordinator is coordinating with City of Wichita staff, subject to final approval by the City Council.

**Analysis:** The following street closure requests have been submitted:

**Hank Williams Jr. May 19, 2012 7:00 am – May 20, 2012 2:00 am**

- William Street, St. Francis Street to Commerce Street.
- Waterman Street, St. Francis Street to Emporia Street – West bound lane.

The event promoter will arrange to remove the barricades as necessary to allow emergency vehicle access during the entire designated time period. The barricades will be removed immediately upon completion of the event.

**Financial Consideration:** The event promoter is responsible for all costs associated with the special event.

**Goal Impact:** Enhance the Quality of Life for citizens through special events and activities.

**Legal Consideration:** There are no legal considerations.

**Recommendation/Actions:** It is recommended that the City Council approve the request subject to; (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department; and (3) Securing a Certificate of Liability Insurance on file with the Community Event Coordinator.

City of Wichita  
City Council Meeting  
May 8, 2012

**TO:** Mayor and City Council

**SUBJECT:** Community Events – Titan 10K Southside Scorcher (Districts III, and IV)

**INITIATED BY:** Division of Arts & Cultural Services

**AGENDA:** Consent

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**Recommendation:** Approve the request for temporary street closures.

**Background:** In accordance with the Community Events procedure the event promoter Clark Ensz, Clark Ensz, Inc. is coordinating with City of Wichita staff, subject to final approval by the City Council.

**Analysis:** The following street closure request has been submitted:

**Titan 10K Southside Scorcher July 14, 2012 6:30 am – 9:00 am**

- Thirty-fifth Street South, Osage Avenue to Walnut Street
- Walnut Street, Thirty-fifth Street South to Thirty-third Street South
- Thirty-third Street South, Walnut Street to Palisade Avenue
- Palisade Avenue, Thirty-third Street South to Thirty-second Street South
- Thirty-second Street South, Palisade Avenue to Gold Street
- Gold Street, Thirty-third Street South to Thirty-first Street South
- McLean boulevard, Thirty-first Street South to Pawnee Street

The event promoter will arrange to remove the barricades as necessary to allow emergency vehicle access during the entire designated time period. The barricades will be removed immediately upon completion of the event.

**Financial Consideration:** The event promoter is responsible for all costs associated with special events.

**Goal Impact:** Enhance the Quality of Life for citizens through special events and activities.

**Legal Consideration:** There are no legal considerations.

**Recommendation/Actions:** It is recommended that the City Council approve the request subject to: (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department; and (3) Securing a Certificate of Liability Insurance on file with the Community Event Coordinator.

City of Wichita  
City Council Meeting  
May 8, 2012

**TO:** Mayor and City Council

**SUBJECT:** Community Events – Celebrate America Concert at Bradley Fair (District II)

**INITIATED BY:** Division of Arts & Cultural Services

**AGENDA:** Consent

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**Recommendation:** Approve the request for temporary street closures.

**Background:** In accordance with the Community Events procedure the event promoter Cathy Erickson, Vice President, Laham Development is coordinating with City of Wichita staff, subject to final approval by the City Council.

**Analysis:** The following street closure request has been submitted:

**Celebrate America Concert at Bradley Fair July 5, 2012 5:30 pm – 10:00 pm**

- North Bradley Fair Parkway, North Rock Road to Executive Drive

The event promoter will arrange to remove the barricades as necessary to allow emergency vehicle access during the entire designated time period. The barricades will be removed immediately upon completion of the event.

**Financial Consideration:** The event promoter is responsible for all costs associated with special events.

**Goal Impact:** Enhance the Quality of Life for citizens through special events and activities.

**Legal Consideration:** There are no legal considerations.

**Recommendation/Actions:** It is recommended that the City Council approve the request subject to: (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department; and (3) Securing a Certificate of Liability Insurance on file with the Community Event Coordinator.

City of Wichita  
City Council Meeting  
May 8, 2012

**TO:** Mayor and City Council

**SUBJECT:** Community Events – Wesley Senior 5K (District IV)

**INITIATED BY:** Division of Arts & Cultural Services

**AGENDA:** Consent

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**Recommendation:** Approve the request for temporary street closures.

**Background:** In accordance with the Community Events procedure the event promoter Clark Ens, Clark Ens, Inc. is coordinating with City of Wichita staff, subject to final approval by the City Council.

**Analysis:** The following street closure request has been submitted:

**Wesley Senior 5K May 23, 2012 6:00 pm – 7:00 pm**

- Amidon Avenue, Murdock Street to West Eleventh Street North
- Sim Park Drive, Amidon Avenue to Bike Path
- Murdock Street, Sim Park Drive to Amidon

The event promoter will arrange to remove the barricades as necessary to allow emergency vehicle access during the entire designated time period. The barricades will be removed immediately upon completion of the event.

**Financial Consideration:** The event promoter is responsible for all costs associated with special events.

**Goal Impact:** Enhance the Quality of Life for citizens through special events and activities.

**Legal Consideration:** There are no legal considerations.

**Recommendation/Actions:** It is recommended that the City Council approve the request subject to: (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department; and (3) Securing a Certificate of Liability Insurance on file with the Community Event Coordinator.



**City of Wichita  
City Council Meeting  
May 8, 2012**

**TO:** Mayor and City Council

**SUBJECT:** Change Order No. 7-Douglas Block Parking Garage (District I)

**INITIATED BY:** Department of Public Works & Utilities

**AGENDA:** Consent

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**Recommendation:** Approve Change Order No. 7.

**Background:** The City has entered into a development agreement with Douglas Place, LLC and Slawson Investment Corporation regarding improvements to the Douglas Block properties, an area bordered by Douglas, Topeka, William and Broadway Streets in downtown Wichita. As part of that development agreement, the City will construct a parking garage on the northwest corner of Topeka and William Streets. Wilson Darnell Mann Architects is the designer of the project and Key Construction was awarded the construction contract following a normal bid process.

The parking garage project was in the final stages of completing the construction drawings when the development agreement was finalized and the City assumed responsibility for its construction. The project was progressing on a fast track because of the need for construction to be completed in 2012, and as a result, certain design assumptions were made in order to stay on schedule. Now concurrent with the early stages of construction, additional information is coming to light, and some minor adjustments need to be made.

**Analysis:** The architects and engineers, the general contractor and City staff have worked together to identify certain issues in the construction documents requiring modifications, to negotiate appropriate costs, and to prepare Change Order No. 7 to deal with as many of these issues as possible at this time.

1. Provide additional waterproofing at the elevator pit and at the below-grade wall between the parking garage and the retail space.
2. Provide additional reinforcing in 13 concrete stair landings in the south stair for improved lateral stability.
3. Isolate and thicken the concrete slab under the emergency generator for greater structural strength and a longer life.
4. Add a concrete curb ramp for proper Americans with Disability Act access to the new crosswalk that was added in Change Order No. 3. Also widen the concrete steps slightly that provide access between the floors to comply with code requirements.
5. Add more steel reinforcing in the concrete topping slabs throughout the garage. This became necessary because the engineering details of the precast structure had not been designed at the time the project was bid, so bidders were given estimate pricing of reinforcing steel based on the steel supplier's past experience. After a purchase order was placed for the precast components, the final engineering was completed by the precast supplier. The final design for the topping slab, which covers all the driving and walking surfaces of the garage, required an additional 5 tons of No. 5 rebar and 22,560 SF of 6x6 welded wire fabric steel reinforcing, primarily due to the increased overlap required in the engineering design.

6. In the passenger elevator which serves six floors, change the fixtures, buttons and lanterns to be the vandal resistant type, add a floor position indicator on the first floor for the convenience of the public, and change all the elevator doors and frames from a baked enamel finish to a brushed stainless steel finish to make them more vandal resistance and to reduce maintenance costs. The total cost of these improvements is \$24,140. A change order has been prepared for this work.

**Financial Considerations:** The budget for the Douglas Place Development currently includes \$801,440 of unencumbered funds. The cost of this work would be paid from the project budget. This would bring total change orders to \$231,478, representing 4.89% of the project budget.

**Goal Impact:** This parking garage will improve the Quality of Life goal for the people who come to utilize the lodging, retail and office facilities being developed in the downtown area, and it will help encourage further economic development downtown.

**Legal Considerations:** The Law Department has approved Change Order No. 7 as to form.

**Recommendation/Action:** It is recommended that the City Council approve Change Order No.7 for \$24,140 and authorize the necessary signatures.

**Attachments:** Change Order No. 7 and pricing quote sheets for each of the six change order items.



May 1, 2012

PUBLIC WORKS-ENGINEERING

**CHANGE ORDER NO. 7**

**To: Key Construction, Inc.**

**Project: Douglas Block Parking Garage**

**Change Order No.: Seven (7)**

**Project No.: 435472**

**Purchase Order No.: 240032**

**OCA No.: 50/50 to 792574 & 792575**

**CHARGE TO OCA No.: 50% to 792574**

**PPN:**

**50% to 792575**

**Please perform the following extra work at a cost not to exceed \$24,139.89**

**Additional Work:**

1. Add waterproofing at elevator pit and at below-grade wall between parking and retail.
2. Add reinforcing at 13 locations at south stair landings for lateral stability of stair tower.
3. Isolate and thicken the concrete slab under the emergency generator.
4. Add concrete curb ramp and widen steps
5. Add more steel reinforcing in topping slabs
6. Change elevator buttons to vandal resistant, add floor indicator on 1<sup>st</sup> floor, and change door frames from baked enamel to brushed stainless steel.

**Reason for Additional Work:**

- 1-3: These are minor additions to the original design that the A&E team has determined, in response to questions raised by the contractor and City representative, will improve the quality of the construction, reduce maintenance over time, and extend the life of the construction.
4. A curb ramp is required to serve the new crosswalk added in Change Order #3 per ADA reqmts. The steps between floors in the garage had to be widened slightly to comply with code requirements.
5. The engineering details of the precast structure for the garage had not been designed at the time the project was bid, so bidders were given estimated pricing from reinforcing steel suppliers. Their estimate for the topping slabs, based on previous experience, was 7.8 tons of #5 rebar and 105,440 SF of welded wire fabric (WWF). After a purchase order was placed for the precast, the final engineering was completed by the precast supplier. Their final design for the topping slabs includes an additional 5 tons of #5 rebar and 22,560 SF of WWF primarily based on increased overlap reqmts.
6. Modifications have been recommended for the elevator to make it more resistant to vandalism and reduce the resulting maintenance cost over time. The floor indicator added on first floor is for the convenience of the public in determining the elevator location and wait times during periods of heavy service.

<b>Item</b>	<b>Negot'd/Bid</b>	<b>Qty</b>	<b>Unit Price</b>	<b>Extension</b>	<b>Price</b>
<b>1. Additional Waterproofing</b>	Negotiated		(Lump Sum)		\$950.00
<b>2. Added Reinforcing at Stairs</b>		13 Loc.			
Reinforcing labor & epoxy	Negotiated		(Lump Sum)	\$1,019.48	
Reinforcing steel materials	Negotiated		(Lump Sum)	<u>\$200.00</u>	
Subtotal					\$1,219.48
<b>3. Isolate and Thicken Slab</b>	Negotiated		(Lump Sum)		\$819.72
<b>4. Add Curb Ramp &amp; Widen Steps</b>	Negotiated		(Lump Sum)		\$1,394.13
<b>5. Added Reinf. in Topping Slab</b>	Negotiated		(Lump Sum)		\$11,476.00

**Douglas Block Parking Garage**

## Change Order No. 7 – Page 2

### 6. Elevator Modifications

Change fixtures, buttons and lanterns to vandal resistant	Negotiated		(Lump Sum)	\$1,584.00
Add floor position indicator	Negotiated	1 Loc.	(Lump Sum)	\$870.00
Change doors & frames to SS	Negotiated	6 Loc.	(Lump Sum)	<u>\$2,587.00</u>
Subtotal				<u>\$5,041.00</u>
Total				\$20,900.33
Key Overhead	Negotiated		5%	\$1,045.02
Key Profit	Negotiated		10%	<u>\$2,194.54</u>
GRAND TOTAL				\$24,139.89

<b>CIP Budget Amount:</b>	<b>\$7,570,000.00</b>	<b>Original Contract Amt.:</b>	<b>\$4,731,600.00</b>
Consultant: WDM Architects		Current CO Amt.:	\$24,139.89
Total Exp. & Encum. To Date:	\$6,768,560.57	Amt. of Previous CO's:	\$207,338.09
<b>CO Amount:</b>	<b>\$24,139.89</b>	<b>Total of All CO's:</b>	<b>\$231,477.98</b>
<b>Unencum. Bal. After CO:</b>	<b>\$777,300.00</b>	<b>% of Orig. Contract / 10% Max.:</b>	<b>4.89%</b>
		<b>Adjusted Contract Amt.:</b>	<b>\$ 4,963,077.98</b>

**Recommended By:**

\_\_\_\_\_  
Edward Martin                      Date  
Project Manager

**Approved:**

\_\_\_\_\_  
Scott Casebolt                      Date  
Project Manager, Key Const.

**Approved as to Form:**

\_\_\_\_\_  
Gary Rebenstorf                      Date  
Director of Law

**Attest:**

\_\_\_\_\_  
City Clerk                      Date

**Approved:**

\_\_\_\_\_  
Gary Janzen, P.E.                      Date  
Interim City Engineer

**Approved:**

\_\_\_\_\_  
Alan King                      Date  
Director of Public Works & Utilities

**Approved by City Council:**

\_\_\_\_\_  
Carl Brewer                      Date  
Mayor

## Douglas Block Parking Garage

RFI #11 - Add waterproofing to elevator pit and below grade wall between parking and retail  
Direction per WDM response dated 3-26-12

Item	Description	Cost
RFI #11	Apply sheet membrane and protection board to elevator pit and below grade wall section between parking/retail	\$950.00
	Subtotal	\$950.00
	Key Overhead 5%	\$47.50
	Key Profit 10%	\$99.75
	Total	\$1,097.25



RFI 011

Douglas Block Parking Garage Project # 12-01-006 Key Construction, Inc.  
360 E. William, Wichita, KS 67202 Tel: Fax:

RFI #: 011 Date Created: 3/25/2012

Answer Company	Answered By	Author Company	Authored By
WDM Architects, P.A.	Wes Darnell	Key Construction, Inc.	Scott Casebolt
105 N. Washington St.	Phone: 316-262-4700	741 W. 2nd St.	Phone: 316-263-9515
Wichita, KS 67202	Fax: 316-262-0002	Wichita, KS 67203	Fax: 316-263-1161

Co-Respondent Author RFI Number

Subject	Discipline	Category
Elevator Pit Waterproofing	Structural	

Cost Impact	Amount	Sched Impact	Days	Dwg Impact
Not Sure		Not Sure		Not Sure

Cost Impact Comments	Sched Impact Comments	Dwg Impact Comments

Question Date Required:

Is there to be water proofing at the elevator pit or below grade concrete per F/S2.1 at the intersection of garage and retail spaces? We cannot find any specifications or details for waterproofing in these areas, thus, none was included. Please advise.

Suggestion Comments

Answer Date Answered:

We will need 6 mil barrier below footing base and water bar between footing base and walls. We will need membrane WP on walls and protection board. Membrane should be equal to Carlisle CCW MiraDRI 860/861 or Tamko TW-60.

Wes Darnell  
3-26-12

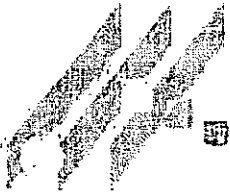
Cc:	Company Name	Contact Name	Copies	Notes

## Douglas Block Parking Garage

### MKEC Structural Detail dated 4-2-12.

Add reinforcing to stair landings (13 locations) at south stair for lateral stability.

Item	Description	Cost
MKEC Detail	Drilling, epoxy, and installation of reinforcing	\$1,019.48
	Added reinforcing steel material	\$200.00
	Subtotal	\$1,219.48
	Key Overhead 5%	\$60.97
	Key Profit 10%	\$128.05
	Total	\$1,408.50



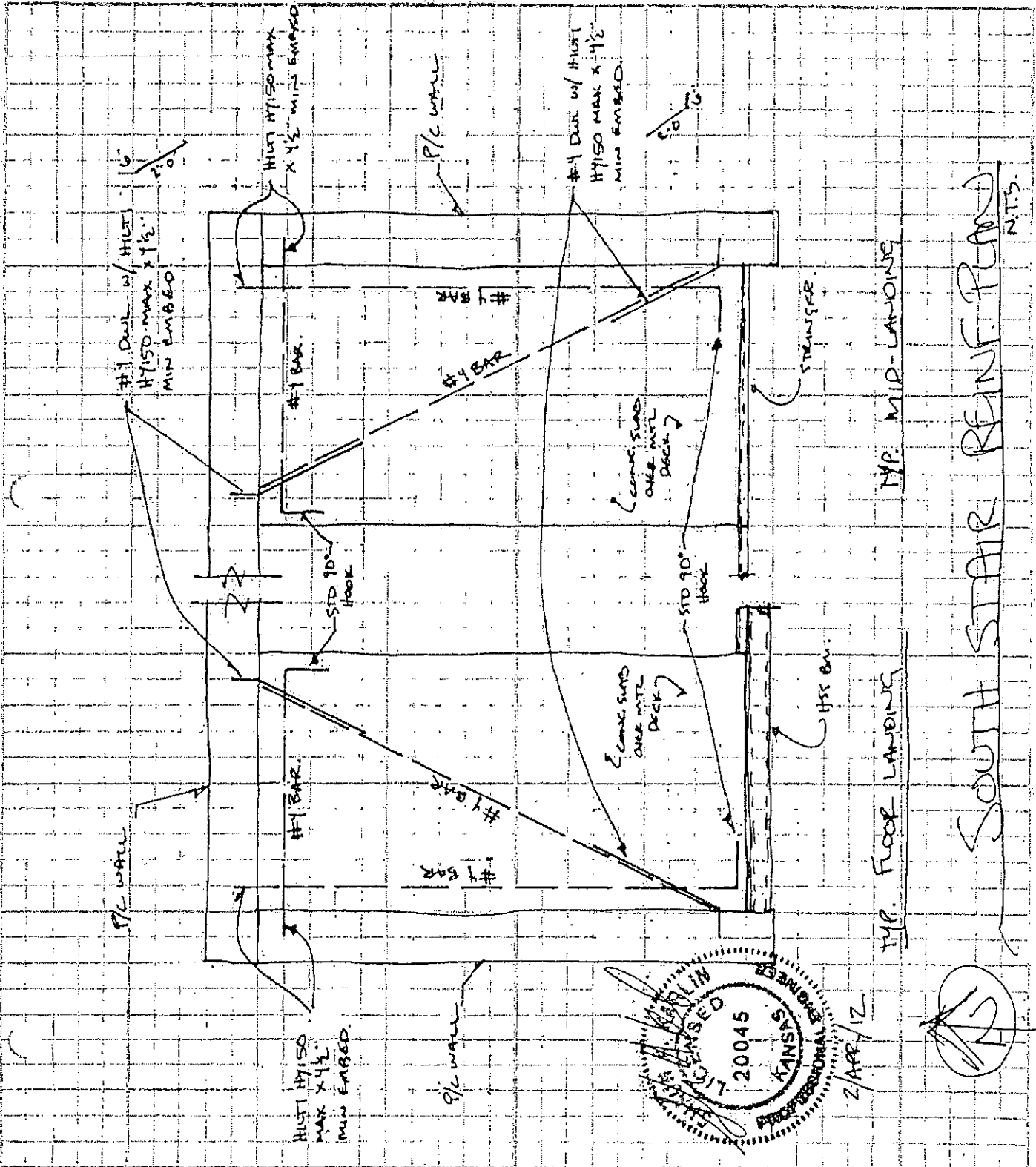
MKEC ENGINEERING CONSULTANTS, I  
KANSAS CITY OKLAHOMA CITY WICH  
CALCULATIONS & SKETCHES

S. KARUN

2/APR/12

LOCATION: 360 E. WILLIAM - WICHITA, KS.

REFERENCE: DOUGLAS BLOCK PARKING GARAGE





## Douglas Block Parking Garage

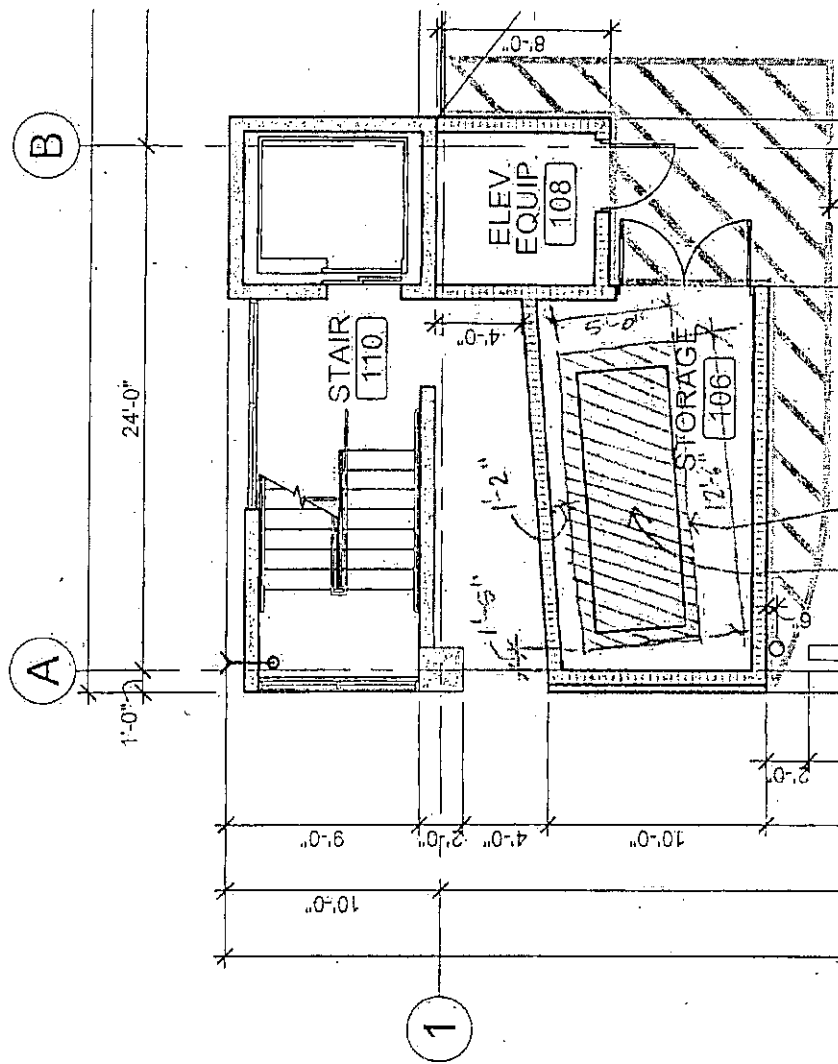
### WDM Sketch dated 3-29-12 Adding Isolation Pad for Generator

Direction per owner request to isolate and thicken slab under generator

Item	Description	Cost
RFI #11	Labor and material to pour thickened section at generator and isolate from adjacent concrete	\$819.72
	Subtotal	\$819.72
	Key Overhead 5%	\$40.99
	Key Profit 10%	\$86.07
	Total	\$946.78

3/29/12

# DOUGLAS BLOCK PARKING GARAGE



PARTIAL 1ST FLOOR PLAN

1/8" = 1'-0"



## Douglas Block Parking Garage

### Change Order Request Pricing

ASI #2 by WDM dated 1-17-12

Item	Description	Cost
ASI #2	Add conc. Curb ramp and widen pan steps	\$1,394.13
	Subtotal	\$1,394.13
	Key Overhead 5%	\$69.71
	Key Profit 10%	\$146.38
	Total	\$1,610.22

**Martin, Edward**

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**From:** Scott Casebolt [shcasebolt@keyconstruction.com]  
**Sent:** Monday, April 16, 2012 1:08 PM  
**To:** Martin, Edward  
**Cc:** Wes Darnell  
**Subject:** Douglas Block Garage - Precast Topping Reinforcement  
**Attachments:** Change Order Request Additional PC Topping Reinforcing Pricing.xlsx

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Ed, when this project was bid, the precast concrete structure was not yet designed. We were given budget pricing from the reinforcing steel suppliers for the welded wire fabric and rebar in the toppings based on previous experience. This budget included 7.8 tons of #5 rebar and 105,440 sf of 6x6 W4/W4 WWF, which was included in our bid pricing to the city. After review with the precast structure design, there is an additional 5 tons of rebar and 22,560 sf of WWF required to meet Coreslab's requirements.

Key believes this is an unforeseen condition and requests a change order for this cost. Attached is the pricing.

Please review and contact us with questions or concerns.

Respectfully Submitted,

Scott Casebolt  
Project Manager  
Key Construction, Inc.  
Phone 316-263-9515  
Fax 316-263-1161  
[shcasebolt@keyconstruction.com](mailto:shcasebolt@keyconstruction.com)  
[www.keyconstruction.com](http://www.keyconstruction.com)

## Douglas Block Parking Garage

Additional reinforcing steel required in precast topping slabs per Coreslab structural design not available until after bid date.

Item	Description	Cost
Precast	Additonal 5 tons of #5 rebar and 22,560 square feet of 6x6 W4/W4	\$11,476.00
Topping	welded wire fabric	
Design	Subtotal	\$11,476.00
	Key Overhead 5%	\$573.80
	Key Profit 10%	\$1,204.98
	Total	\$13,254.78

## Douglas Block Parking Garage

Per the returned elevator shop drawings/submittals from WDM, there were several items added above and beyond the elevator specifications. The costs for these are as follows.

Item	Description	Cost
Elevator Submittal Review	Change fixtures, buttons, and lanterns from standard to vandal resistant.	\$1,584.00
	Add a vandal resistant hall position indicator	\$870.00
	Change entrance frames and doors from backed enamel to brushed stainless steel.	\$2,587.00
	Subtotal	\$5,041.00
	Key Overhead 5%	\$252.05
	Key Profit 10%	\$529.31
	Total	\$5,822.36

**CONTRACTS & AGREEMENTS**  
**BLANKET PURCHASE ORDERS RENEWAL OPTIONS**  
**APRIL 2012**

COMMODITY TITLE	EXPIRATION DATE	VENDOR NAME	DEPARTMENT	ORIGINAL CONTRACT DATES	RENEWAL OPTIONS REMAINING
Airport Advertising & Marketing Program Services	4/30/2012	Stucky Nolte, L.L.C.	Airport	5/1/2011 - 4/30/2012	4 - 1 year options
Automatic Teller Machines - Airport	4/30/2013	Intrust Bank NA	Airport	5/8/2007 - 5/7/2010	Last option
Automatic Teller Machines - Century II	4/30/2013	Intrust Bank NA	Century II	5/1/2007 - 4/30/2010	Last option
Bicycle Services: Parts & Repairs	4/30/2013	MJS Enterprises Inc. DBA Bicycle X Change Shops	Police	5/1/1998 - 4/30/1999	Annual basis
Concessions at Park Athletic Fields	4/30/2013	Joe Stevens Vending Co. Inc.	Park & Recreation	5/1/2011 - 4/30/2012	1 - 1 year option
Concessions at Plainview Park Baseball Fields	4/30/2013	Juan Campos (Tiendita La Pelota)	Park & Recreation	5/1/2011 - 4/30/2012	1 - 1 year option
Drug Testing Services	4/30/2013	Comcare Addiction Treatment Services	Municipal Court	5/1/2009 - 4/30/2010	1 - 1 year option
Elevator Maintenance	4/30/2012	Kone, Inc.	Various	5/1/2010 - 4/30/2011	3 - 1 year options
Filter Fly Control Chemicals	4/30/2013	Precision Control Technology, Inc. dba Adapco Environmental Solutions	Public Works & Utilities	5/13/2003 - 4/30/2004	Annual basis
Filters, Miscellaneous Air, Fuel & Oil	4/30/2012	Central Power Systems & Services, Inc.	Various	5/3/2011 - 4/30/2012	2 - 1 year options
Glass Beads for Traffic Line Paint	4/30/2013	Weissker Manufacturing, LLC	Public Works & Utilities	5/1/2010 - 4/30/2011	Last option
Hydrogen Peroxide (Bulk Delivery)	4/30/2013	Brenntag Southwest, Inc.	Public Works & Utilities	5/10/2011 - 4/30/2012	1 - 1 year option
Liquid Chlorine (Bulk Delivery)	4/30/2013	Brenntag Southwest, Inc.	Public Works & Utilities	5/1/2010 - 4/30/2011	Last option
Meter Boxes - Custom Setters 2" - Group 1 and 21" & 30" Meter Boxes - Group 3	4/30/2012	HD Supply Waterworks, Inc.	Public Works & Utilities	5/1/2010 - 4/30/2011	1 - 1 year option
Meter Boxes - Monitor Covers 20" - Group 2	4/30/2013	Water Products, Inc.	Public Works & Utilities	5/1/2010 - 4/30/2011	Last option
Mow, Edge, Trim & Maintenance at Cowtown Museum	4/30/2013	First Choice Home Inspections, Inc.	City Manager	5/1/2010 - 4/30/2011	Last option
Mowing & Landscape Maintenance for Brooks & Chapin Landfills	4/30/2013	D&R Mowing Services, L.L.C.	Public Works & Utilities	5/1/2010 - 4/30/2011	Last option
Mowing, Trimming & Maintenance of Cemeteries	4/30/2013	Michael's Complete Lawn Care, Inc.	Park & Recreation	4/20/2010 - 4/30/2011	Last option
Paint - Airfield Traffic Line	4/30/2012	Ennis Paint, Inc.	Airport	5/1/2011 - 4/30/2012	2 - 1 year options
Police Cycling Helmets & Gloves	4/30/2013	MJS Enterprises, Inc. DBA Bicycle X-Change Shops	Police	5/1/2003 - 4/30/2004	Annual basis
Pool Chemicals - Group 2 - Calcium Hypochlorite Granulated Chlorine, Group 3 - Diatomaceous Earth, Group 4 - Isocyanuric Acid, Powdered, Group 5 - Hydrochloric &/or Muriatic Acid	4/30/2012	Leslie's Swimming Pool Supplies	Park & Recreation	5/10/2011 - 4/30/2012	2 - 1 year options with usage for only 5 months
Pool Chemicals - Group 1 - 3" Pucks Calcium Hypochlorite	4/30/2012	United Industries, Inc.	Park & Recreation	5/10/2011 - 4/30/2012	2 - 1 year options with usage for only 5 months
Runway Derubberizing Compound	4/30/2013	Unicen Impex Inc. dba Unicen Industries	Airport	5/11/2011 - 4/30/2012	1 - 1 year option
Special Liquor Tax Funds Administration (of)	4/4/2013	Comcare - Sedgwick County, Kansas	City Manager	4/5/2010 - 4/4/2011	Last option
Trash Containers & Collection Services - Various	4/30/2013	Waste Connections, Inc. dba Waste Connections of Kansas, Inc.	Various	5/1/2010 - 4/30/2011	Last option
Valley Center Solids Handling Agreement with City of Wichita	4/30/2013	City of Valley Center	Public Works & Utilities	5/1/2011 - 4/30/2012	1 - 1 year option
Water Utility Service Lines Installation	4/30/2013	CK Contracting, LLC	Public Works & Utilities	5/1/2010 - 4/30/2011	Last option
Window Cleaning Services - Airport	4/30/2013	EH Technical Solutions, Inc.	Airport	5/1/2010 - 4/30/2011	Last option

**PROFESSIONAL CONTRACTS UNDER \$25,000  
APRIL 2012**

VENDOR NAME	DOCUMENT NO	DOCUMENT TITLE	AMOUNT		

**ANNUAL MAINTENANCE CONTRACTS OVER \$25,000  
DIRECT PURCHASE ORDERS FOR APRIL 2012**

VENDOR NAME	DOCUMENT NO	DOCUMENT TITLE	AMOUNT		
Environmental Systems Research	DP240296	Software Maintenance/Support	\$26,984.00		



**CITY OF WICHITA**  
**City Council Meeting**  
**May 8, 2012**

**TO:** Mayor and City Council Members

**SUBJECT:** Weapons Destruction

**INITIATED BY:** Law Department

**AGENDA:** Consent

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**Recommendation:** Receive and file the report.

**Background:** The Police Department has requested authorization to destroy several weapons which have been confiscated in criminal activity but are no longer needed as evidence.

**Analysis:** The City Code provides that weapons seized in connection with criminal activity shall be destroyed or forfeited to the Wichita Police Department. All transactions involving weapon disposal must have prior approval of the City Manager. A list of weapons being destroyed has been provided (attached), and includes Exhibit A – 22 long guns and 50 handguns. The destruction of the weapons will be witnessed and monitored by staff.

**Financial Considerations:** There are no financial considerations.

**Goal Impact:** The destruction of seized weapons furthers the goal of Safe and Secure Neighborhoods by permanently removing these weapons from the streets of Wichita.

**Legal Considerations:** Upon review by the City Council, the necessary court documents will be prepared to proceed with destruction of the listed weapons.

**Recommendations/Actions:** It is recommended that the City Council receive and file the list of weapons.

**Attachment:** List of weapons to be destroyed.

## APRIL 2012 HAND GUN LIST TBD

#	CASE NUMBER	MAKE	MODEL	SERIAL NUMBER	CAL	TYPE
1	02C84135	RUGER	SECURITY SIX	16084740	357	PR
2	02C8812	LORCIN	L380	120772	380	PI
3	02C42184	BRYCO	48	07172	380	PI
4	02C4472	DAVIS	P32	P033043	32	PI
5	02C7468	ROSSI		W562018	38	PR
6	02C88423	RAVEN ARMS	MP25	1356337	25	PI
7	02C24814	BRYCO	48	627266	380	PI
8	02C19043	LORCIN	L380	309369	380	PI
9	02C24814	RG	1956		25	PI
10	02C96866	STERLING	MARK II	G55700	380	PI
11	02C77044	FABRINOR V	MINICOMPAC	71040487301	45	PI
12	02C111902	RUGER	GP100	17005328	357	PR
13	02C119745	RUGER	GP100	17293941	357	PR
14	02C73345	ARMI SANPAOLO	NAVY	75608	36	PU
15	11C66243	BERRETTA	92FS	BER139803	9	PI
16	09C504975	RUGER	REDHAWK	50010674	44	PR
17	08C68065	COBRA	FS32	FS009722	32	PI
18	08C71943	COBRA	FS380	FS028597	380	PI
19	08C67767	SMITH/WESSON	SW40VE	PDW8436	40	PI
20	08C68132	JIMENEZ ARMS	JA380	066587	380	PI
21	08C72965	RG	RG40	R073507	40	PR
22	08C68720	BRYCO	J22	477445	22	PI
23	08C71961	JENNINGS	J22	743674	22	PI
24	08C73508	LORCIN	L25	248155	25	PI
25	08C73823	DAN WESSON		188725	357	PR
26	08C69975	LORCIN	L380	339261	380	PI

#	CASE NUMBER	MAKE	MODEL	SERIAL NUMBER	CAL	TYPE
27	08C74985	BRYCO	48	903393	380	PI
28	08C68401	LUGER	C9	P1388778	9	PI
29	08C70250	BERSA	THUNDER380	846441	380	PI
30	08C73274	ROHM	63	HF126618	38	PR
31	08C72756	SMITH & WESSON	652	1D79550	357	PR
32	08C69030	JIMENEZ ARMS	JA NINE	078917	9	PI
33	08C74150	LLAMA	COMMANCHE III	S897463	357	PR
34	03C89250	PW ARMS		AD251096	9	PI
35	03C45359	TAURUS		LE618532	357	PR
36	03C94438	BERETTA	92F	C51090Z	9	PI
37	03C89186	GLOCK	27	BXB714US	40	PI
38	03C7517	CHARTER ARMS	UNDERCOVER	567863	38	PR
39	03C89250	CLERKE	1 <sup>ST</sup>	227576	22	PR
40	03C55600	LLAMA		B72009	45	PI
41	03C30502	JENNINGS	25	224222	25	PI
42	03C41881	JENNINGS	48	056376	380	PI
43	03C26535	SMITH & WESSON	19-4	54K8620	357	PR
44	03C39390	BRYCO	JENNINGS NINE	1515102	9	PI
45	03C18285	LORCIN	LH380	LH05225	380	PI
46	03C67540	DAN WESSON		217477	357	PR
47	03C80200	LORCIN	L380	319336	380	PI
48	03C59864	DAVIS IND	P380	AP034495	380	PI
49	03C101298	SMITH & WESSON	SW40VE	PBK8490	40	PI
50	98C41193	UNION COMMERATIVE	REPLICA	112737	45	PR
51						
52						

# APRIL TBD LONG GUNS 2012

#	CASE NUMBER	MAKE	MODEL	SERIAL NUMBER	CAL	TYPE
1	R50695	MARLIN	GLENFIELD 60	24402001	22	RB
2	02C84061	WINCHESTER	120	L2139024	12	SP
3	05C94793	NORINCO	SKS	9206358	7.62	RI
4	02C100697	MARLIN	60	02123616	22	RI
5	02C12924	WINCHESTER	70	G2246184	30	RB
6	11C66243	MARLIN	100G		22	RB
7	11C66243	WINCHESTER	94	4735609	30-30	RL
8	11C66243	HARRINGTON & RICHARDSON		A20226	12	SS
9	08C68613	SEARS/ROEBUCK	HIGGINS101.540		16	SE
10	08C70124	STEVENS/SAVAGE	58B		410	SB
11	08C72756	H&R	PLAINSMAN 865	20887	22	RB
12	08C72756	BROWNING	LIGHT 12	374395	12	SI
13	08C69334	3 HOMEMADE RIFLES				
14	12C504114	REMINGTON	1100	N454112V	12	SI
15	03C9625	WESTERN FIELD	59		22	RI
16	03C67540	MARLIN	336	21081119	3030	RL
17	03C55600	ITHICA	51	510014064	12	SI
18	03C55600	GLENFIELD	60	25450870	22	RI
19	03C55600	GLENFIELD	25	71316715	22	RB
20	03C55600	CHINESE	SKS	1604227	7.62	RI
21	03C55600	MOSSBERG	500A	J532586	12	SP
22	03C67540	MOSSBERG	640KS		22	RB
23						
24						
25						
26						

**CITY OF WICHITA**  
**City Council Meeting**  
May 8, 2012

**TO:** Mayor and City Council

**SUBJECT:** Approval of Offers for the Meridian: Pawnee to Orient Road Improvement Project and Drainage Outfall Project (District IV)

**INITIATED BY:** Office of Property Management

**AGENDA:** Consent

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**Recommendation:** Approve the offers.

**Background:** On August 19, 2008, the City Council approved a project to provide storm water drainage relief for the area bounded by Meridian, Harry, Pawnee and the Big Arkansas River. Additionally, the project will improve Meridian from Pawnee to Orient. Orient will be realigned to intersect at Meridian, south of the current intersection. This will create a separation from the railroad corridor. The drainage portion of the project requires the acquisition of all or part of five parcels. Two of the properties required are also impacted by the Meridian Street improvement project. At this time, the design of the drainage portion of the project is sufficient to allow the acquisition of right of way. All the tracts required for the road project have not been defined but the two also in the drainage project have been described, and will be acquired with this approval.

**Analysis:** As required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act, all tracts required for the project have been valued and just compensation established. As a result of the project, there is one residential property to be acquired and the owner will be relocated. Based on these valuations, the fair market value of the five tracts to be acquired is \$185,780. This amount will be offered to the various property owners. Any settlements in excess of the approved amounts will be presented to City Council for final approval.

**Financial Considerations:** The funding source for the project is General Obligation Bonds. A budget of \$285,780 is requested. This includes \$185,780 for the acquisitions, \$75,000 for relocation, and \$25,000 for title work, surveys, demolition, closing costs and other administrative fees.

**Goal Impact:** The acquisition of these parcels is necessary to ensure Efficient Infrastructure by improving the traffic flow through a major transportation corridor.

**Legal Considerations:** All agreements are subject to review and approval as to form by the Law Department.

**Recommendation/Action:** It is recommended that the City Council 1) Approve the offers and; 2) Authorize the necessary signatures.

**Attachments:** Aerial map.





# Meridan Outfall



Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.





**City of Wichita**  
**City Council Meeting**  
 May 08, 2012

**TO:** Mayor and City Council

**SUBJECT:** 2012 Federal Justice Assistance Grant (JAG) Memorandum of Understanding

**INITIATED BY:** Wichita Police Department

**AGENDA:** Consent

---

**Recommendation:** Approve the Memorandum of Understanding between the City of Wichita and Sedgwick County.

**Background:** The City of Wichita Police Department and Sedgwick County Sheriff's Office have received notification they are eligible to receive 2012 Edward Byrne Memorial Justice Assistance Grant (JAG) funding. The total JAG award is \$362,521. The allocations established by the Bureau of Justice Assistance are \$181,261 to the City of Wichita, and \$181,260 to Sedgwick County. The application is due May 14, 2012.

The Edward J. Byrne Memorial JAG Program is the primary provider of federal criminal justice funding to state and local jurisdictions. JAG funds support all components of the criminal justice system, from multi-jurisdictional drug and gang task forces to crime prevention and domestic violence programs, courts, corrections, treatment, and justice information sharing initiatives.

JAG funds can be used for state and local initiatives, technical assistance, training personnel, equipment, supplies, contractual support, and information systems for criminal justice for any of the following categories:

- Law enforcement programs;
- Prosecution and courts programs;
- Prevention and education programs;
- Corrections and community corrections programs;
- Drug treatment and enforcement programs;
- Planning, evaluation, and technology improvement programs;
- Crime Victim and witness programs (other than compensation).

**Analysis:** The Wichita Police Department will use its share of the JAG funding for Law Enforcement purposes to ensure a Safe and Secure Community.

**Financial Considerations:** The City of Wichita will receive \$181,260 in 2012 Justice Assistance Grant funding. There is no local match requirement.

General Police Equipment (purchase/repair items, e.g., LIDARS, TASERS, Firearms)	\$111,261
Video system for interview rooms	\$60,000
Rental Vehicles and fuel for special assignments	\$10,000
<b>Total</b>	<b>\$181,261</b>

**Goal Impact:** Under the City of Wichita's Safe and Secure Initiative, the additional funding will help to ensure the police department can continue its emphasis on the community policing philosophy. This philosophy relies on positive interaction between the police, other public servants, and community members to serve our community's needs regarding safety, crime prevention, and crime-related quality-of-life issues.

**Legal Considerations:** The required Memorandum of Understanding has been reviewed by the Law Department and approved as to form.

**Recommendations/Actions:** It is recommended that the City Council approve the Memorandum of Understanding and authorize the appropriate signatures.

**Attachments:** Memorandum of Understanding between the City of Wichita and Sedgwick County.



City of Wichita  
City Council Meeting  
May 8, 2012

**TO:** Mayor and City Council

**SUBJECT:** Regional Air Quality Improvement Project – Phase II (All Districts)

**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA:** Consent

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**Recommendation:** Approve submittal of the grant application and authorize the necessary signatures.

**Background:** The Metropolitan Area Planning Department (MAPD) requests approval to submit a grant application for a Regional Air Quality Improvement Program – Phase II. The project will encourage the public to take voluntary actions to minimize emissions that contribute to ozone formation. The three project elements are: 1) enhancements to a system to alert the public about high ozone days and what to do when ozone levels are high; 2) an outreach program for voluntary air quality improvements for local government agencies, businesses and organizations; and 3) a public education and community awareness program.

For a number of years, the Wichita region has been close to exceeding the National Ambient Air Quality Standards (NAAQS) for ozone. When EPA revised the ozone standard in March, 2008, the City Council passed a resolution asking City staff and the community to find solutions to reduce air pollution to stay in compliance with the federal standard.

While the Wichita area is currently in compliance with the ozone standard, actual ozone monitoring results are trending upwards at all area monitoring locations. Each of the last three years have seen higher average ozone levels with high results exceeding the standard on eleven days in the spring and summer of 2011. These results place the community close to violating the ozone standard, which could require the Kansas Department of Health and Environment to recommend a non-attainment designation for the Wichita area.

Since non-attainment designation would have substantial economic impacts on the region (increased costs of \$10 million or more per year for at least ten years), it is in the community's best interest to improve its air quality. The proposed Regional Air Quality Improvement Program is designed to promote voluntary efforts at reducing air pollution. It promotes proactive measures to raise public awareness and to provide information about health and economic implications before a violation of the standard occurs.

In April, the Wichita Area Metropolitan Planning Organization (WAMPO) announced that it was accepting applications for its competitive funding programs for its 2013 Transportation Improvement Program (TIP). The proposed Regional Air Quality Improvement Program is eligible to be funded by one of those programs, the Congestion Mitigation & Air Quality Program. The application deadline is May 11, 2012. Although this proposal will have to compete against other projects for this pool of funds, WAMPO did approve Phase I for its 2012 TIP. The WAMPO Policy Body and the Kansas Department of Transportation will both have to approve the project.

**Analysis:** WAMPO has been designated by the state of Kansas as the Metropolitan Planning Organization (MPO) for the Wichita metropolitan region. The City must sponsor and implement the project per a contract agreement with KDOT. The City must obligate the funds within the 2013 Federal

Fiscal Year and immediately begin work but may complete the project in subsequent years. MAPD intends to utilize department staff to complete the project.

**Financial Considerations:** The cost of the project is \$175,000 for 2013, for which Wichita must provide a 20 percent local match of \$35,000. The federal program will fund the remaining \$140,000. City match shall consist of general funds that will be placed into a project account for project implementation. KDOT will develop a yearly contract to be approved by the City if awarded the grant. The City will expend project funds and KDOT will reimburse the City per the contract agreement.

**Goal Impact:** This project will help achieve the goals of Safe and Secure Neighborhoods, Quality of Life, and Promote Economic Vitality.

**Legal Considerations:** The application has been approved by the Law Department as to form.

**Recommendations/Actions:** It is recommended that the City Council, as project sponsor, approve the Grant Application, and authorize necessary signatures for grant forms.

**Attachments:**

- 1) Resolution 08-306, A Resolution Encouraging a Community Response for Clean Air; dated 6/17/2008
- 2) WAMPO Project Grant Application Form, dated 5/1/2012
- 3) KDOT Form 1312
- 4) Wichita Proposal for KDOT 2013 TIP Funding - CMAQ

**KANSAS DEPARTMENT OF TRANSPORTATION**

**BUREAU OF LOCAL PROJECTS**

**REQUEST FOR CONGESTION MITIGATION AND AIR QUALITY (CMAQ)**

**IMPROVEMENT PROGRAM PROJECT**

County/City: WICHITA

**WHEREAS**, The Secretary of Transportation of the State of Kansas, hereinafter referred to as the "Secretary," has been designated as an agent for WICHITA under an agreement dated \_\_\_\_\_, or, will be designated as an agent for WICHITA under an agreement to be executed at a later date and,

**WHEREAS**, the Federal-Aid Highway Act of 1956, as amended, and subsequent acts and amendments, provides Federal-Aid funds to assist the counties, cities, and other political sub-divisions in improving their roads and streets and congestion mitigation activities that provide air quality benefits, and,

**WHEREAS**, The above-noted county/city desires to improve a certain portion of their road or street system or other related project that will contribute to air quality improvements and reduce congestion, now, therefore,

**WHEREAS**, The county/city request the Secretary program the following Congestion Mitigation Air Quality Improvement project Regional Air Quality Improvement Program - Phase II

**ESTIMATED** costs of such improvements are as follows:

Federal Funds	\$	<u>140,000.00</u>
Local Funds	\$	<u>35,000.00</u>
ESTIMATED Total for Project	\$	<u>175,000.00</u>
Proposed Let Date		<u></u>

Submit One (1) Copy of the document along with Approved TIP documentation

**BE IT RESOLVED:** That sufficient funds of WICHITA County/City are now, or will be available and are hereby pledged to the Secretary in the amount and at the time required for the supplementing of federal funds available for the completion of this project. Prior to Federal Authorization, any project expenditures made by the County/City are ineligible for federal funding and remain the responsibility of the County/City. Upon cancellation of the project by the County/City, the County/City shall reimburse the Secretary within thirty (30) days after receipt of statement of cost incurred by the Secretary prior to cancellation.

Day 1 Month May Year 2012, at Wichita, Kansas.

Recommend for Approval:

APPROPRIATE LOCAL OFFICIAL(S)

County/City Engineer or Administrator

Chairperson/Mayor

ATTEST:

Member

County/City Clerk

Member

RESOLUTION NO. 08-306

A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF WICHITA,  
KANSAS, ENCOURAGING A COMMUNITY RESPONSE FOR CLEAN AIR

**WHEREAS**, clean air is critical to the quality of life of Wichita citizens and our surrounding neighbors, and

**WHEREAS**, the level of ozone in Wichita air samples has been steadily increasing; posing a threat to the area's economy and health, and

**WHEREAS**, non-compliance with newly-lowered EPA standards for ozone levels will result in as much as a \$10 million annual negative impact on our local economy, and

**WHEREAS**, the personal actions of citizens of Wichita and surrounding communities can have a direct effect on the lowering of our ozone levels, and

**WHEREAS**, businesses and industries in the Wichita area can also play an important role in maintaining our air quality;

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA THAT**

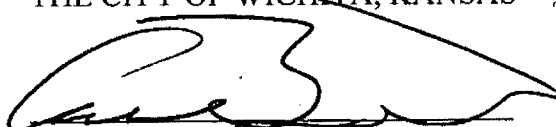
The City of Wichita staff shall take appropriate action for attainment of EPA ozone standards,

And, all local governments, businesses, industry and private citizens in the Wichita Metropolitan Service Area (MSA) are encouraged to join the City of Wichita in finding solutions to reduce air pollution and protect the well being of our community;

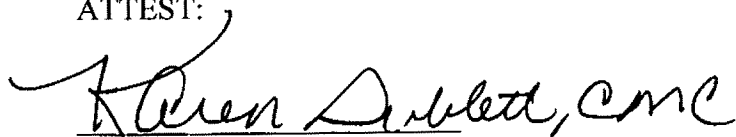
PASSED AND APPROVED THIS 17<sup>th</sup> DAY OF JUNE 2008.



THE CITY OF WICHITA, KANSAS

  
Carl Brewer, Mayor

ATTEST:

  
Karen Sublett, City Clerk

Project Sponsor: City of Wichita  
Contact name: Kay Johnson  
Contact title: Manager, Environmental Initiatives  
Contact address: 455 North Main Street Wichita, KS 67202  
Contact phone: (316)268-4251  
Contact e-mail: kjohnson@wichita.gov

## **Project Information**

Is the project Competitive or Non-Competitive? C

*Type C for Competitive projects and N for Non-Competitive project*

Project type:

*Select one of the following project types.*

- ☐ Roa   ☐ Bridg   ☐ Interchange   ☐ Intersection   ☐ ITS   ☐ Transit/Paratransit  
☐ Enhancement (Bicycle/Ped.)   ☐ SRTS   ☐ Traffic Signal   ☒ Other   ☐ Safet

WAMPO TIP number:

*New projects will be assigned WAMPO TIP numbers after applications are received by*

Project location (provide street name(s) if applicable):

WAMPO and MSA Region

To:

FFY 2015

From:

FFY 2013

Project Scope:

Development and implementation of a Wichita/Regional Voluntary Air Quality Improvement Program, Phase II See Attachment - Program Scope

Project name:

Wichita Regional Air Quality Improvement Program: Region: From FFY 201

*Use the following project naming convention: "Project Type": "Project Location": "From" to "To".  
(See above questions for the project type, location, from, and to information.)*

*Project names are subject to change in order to keep project names consistent throughout the TIP.*

What is the Federal functional classification of the project's location?

*(If this does not apply to the project, leave blank.)*

- ☐ Interstate   ☐ Other Urban Freeway and Expressway   ☐ Other Principal Arterial   ☐ Minor Arterial  
☐ Urban Collector   ☐ Rural Major Collector   ☐ Rural Minor Collector   ☐ Local   ☒ N/A

Provide project costs by funding source(s) below. Costs must be shown in FFY 2012 dollars. DO NOT apply inflation rates for future years (2013, 2014, or 2015).

If applying for Competitive funds (MPO-STP, MPO-CMAQ, MPO-BR, MPO-BRO, or MPO-BRS), be sure to complete the correct Project Selection Criteria (PSC) application forms located at the bottom of this form.

REMINDER: MPO-BR is only available in FFY 2012. In FFY 2013 and later, the MPO-BR funds will be divided into MPO-BRS (On-System) and MPO-BRO (Off-System). For additional details, contact WAMPO staff at (216) 269-4201

What is the total cost of the project?

### Funding Source 1

What is the project's first funding source?

Please contact WAMPO at 352-4863 if the funding source of your project is not one of the choices listed.

	<u>Federal</u>	<u>State</u>	<u>Local</u>	<u>Total</u>
<u>Other</u>	\$140,000	\$0	\$35,000	\$175,000
<u>PE</u>	\$0	\$0	\$0	\$0
<u>ROW</u>	\$0	\$0	\$0	\$0
<u>CE</u>	\$0	\$0	\$0	\$0
<u>Const</u>	\$0	\$0	\$0	\$0
<u>Total</u>	\$140,000	\$0	\$35,000	\$175,000

### Funding Source 2

If the project has a second funding source, list here:

	<u>Federal</u>	<u>State</u>	<u>Local</u>	<u>Total</u>
<u>Other</u>	\$0	\$0	\$0	\$0
<u>PE</u>	\$0	\$0	\$0	\$0
<u>ROW</u>	\$0	\$0	\$0	\$0
<u>CE</u>	\$0	\$0	\$0	\$0
<u>Const</u>	\$0	\$0	\$0	\$0
<u>Total</u>	\$0	\$0	\$0	\$0

### Funding Source 3

If the project has a third funding source, list here:

	<u>Federal</u>	<u>State</u>	<u>Local</u>	<u>Total</u>
<u>Other</u>	\$0	\$0	\$0	\$0
<u>PE</u>	\$0	\$0	\$0	\$0
<u>ROW</u>	\$0	\$0	\$0	\$0
<u>CE</u>	\$0	\$0	\$0	\$0
<u>Const</u>	\$0	\$0	\$0	\$0
<u>Total</u>	\$0	\$0	\$0	\$0

Provide any additional information if applicable:

See Attachment Program Scope

If necessary, provide any additional information that you feel WAMPO staff will need to know about the project.

What FFY is the project expected to occur?

☒ 2013  
☐ 2014  
☐ 2015  
☐ 2016

☒ Check here if the project will occur in more than one FFY.

If the project is in more than one FFY, identify the FFY's here: 2014, 2015

Answer in terms of which FFY (October 1 to September 30) the project will occur (i.e. 2013, 2014)

### Additional Project Information

If the project has a state project number, identify here: N/A

☒ Check here if the project is in the MTP 2035 Eligible for Funding Project List

What is the projects MTP ID number identified in the MTP 2035 Eligible for Funding Project List? 392

If the project is in other plans or documents, identify here.

List of Wichita Voluntary Ozone Reduction Actions

### Project Selection Criteria

**\* Competitive project applications must have a minimum of one PSC completed to be considered for competitive funds.**

For each funding source and project type applied click on the PSC Application Form button below (only one application form may be opened at one time):

STP PSC  
Application  
Form

CMAQ PSC  
Application  
Form

BRO BRS  
PSC  
Application  
Form

ITS PSC  
Application  
Form

Bike/Ped  
PSC  
Application  
Form

Public  
Transit PSC  
Application  
Form

Shown below are common PSC used by various project types. Each competitive project being applied for must complete a minimum of the competitive fund being applied for (MPO-STP, MPO-CMAQ, MPO-BRO, or MPO-BRS).

Road: STP, CMAQ  
Bridge: STP, BR  
Intersection: STP, CMAQ

Interchange: STP, CMAQ  
ITS: ITS, STP, CMAQ  
Transit/Paratransit: Public Transit, STP, CMAQ

Enhancement: STP, CMAQ, Bike/P  
Traffic Signal: STP, CMAQ  
Safety: STP

#### **Funding Source 4**

If the project has a fourth funding source, list here:

	<u>Federal</u>	<u>State</u>	<u>Local</u>	<u>Total</u>
<u>Other</u>	\$0	\$0	\$0	\$0
<u>PE</u>	\$0	\$0	\$0	\$0
<u>ROW</u>	\$0	\$0	\$0	\$0
<u>CE</u>	\$0	\$0	\$0	\$0
<u>Const</u>	\$0	\$0	\$0	\$0
<u>Total</u>	\$0	\$0	\$0	\$0

#### **Funding Source 5**

If the project has a fifth funding source, list here:

	<u>Federal</u>	<u>State</u>	<u>Local</u>	<u>Total</u>
<u>Other</u>	\$0	\$0	\$0	\$0
<u>PE</u>	\$0	\$0	\$0	\$0
<u>ROW</u>	\$0	\$0	\$0	\$0
<u>CE</u>	\$0	\$0	\$0	\$0
<u>Const</u>	\$0	\$0	\$0	\$0
<u>Total</u>	\$0	\$0	\$0	\$0

Explain the sources of funding from the above section:

What is the total project cost over the life of the project? (Include total amount over multiple FFY's if applicable).

\$175,000

at

d.



City of Wichita  
City Council Meeting  
May 8, 2012

**TO:** Mayor and City Council

**SUBJECT:** Brooks Landfill Construction and Demolition Contract Amendment (All Districts)

**INITIATED BY:** Department of Public Works & Utilities

**AGENDA:** Consent

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**Recommendations:** Extend the terms of the existing contract with Herzog Environmental (Herzog) to operate the Brooks Construction & Demolition (C&D) Landfill and direct City staff to issue a Request for Proposals (RFP) for future contract operations.

**Background:** The City of Wichita has operated the Brooks C&D Landfill located at 4100 North West Street, with Herzog being the contractor since 2001. The landfill is permitted by the Kansas Department of Health and Environment to receive C&D waste and friable asbestos. C&D waste includes excess material produced during new construction, renovation, and demolition of buildings and structures, such as bricks, concrete, wood, brush, roofing materials, wall and floor coverings, and drywall. City generated waste includes street sweepings, tree trimmings and C&D debris. The landfill and disposal costs are fully funded with the tipping fees. The current tipping fee is \$29 per ton, with \$12 retained by Herzog, and \$16 retained by the City and \$1 paid to the State of Kansas. Limited landfill capacity and ongoing disposal needs of the City provide necessary cause for the City to study the feasibility and scope of ongoing and future C&D landfill operations.

**Analysis:** The amended contract with Herzog would become effective upon approval. Staff is requesting an extension of the contract under the same terms and conditions to allow continued operations through December 28, 2012. This contract amendment with Herzog allows for continued operations of the Brooks C&D landfill while City staff issue a RFP in accordance with City procurement procedures for future contract operations of the Brooks C&D landfill.

**Financial Considerations:** Extending the current contract will ensure current operations remain static for until December 28, 2012. There is one private contractor in the City that currently charges \$32 per ton.

**Goal Impact:** This project supports the Efficient Infrastructure goal by maintaining and optimizing public facilities and assets.

**Legal Considerations:** The Law Department has approved the contract amendment as to form.

**Recommendation/Action:** It is recommended that the City Council approve the contract amendment, extend the current contract expiration to December 28, 2012, authorize the necessary signatures, and direct City staff to issue a RFP for future contract operations.

**Attachment:** Contract amendment.

**CONTRACT AMENDMENT – BP**

**THIS CONTRACT AMENDMENT** is entered into this            day of  
by and between the **City of Wichita, KANSAS**, A Municipal Corporation, hereinafter called “**CITY**”, and  
**Herzog Environmental**, hereinafter called “**CONTRACTOR**”.

**WITNESSETH THAT:**

**WHEREAS**, on the 6<sup>th</sup> day of June, 2001, the above-named parties entered  
into a contract which stipulated that the Contractor will pay the **City of Wichita** \$9.00 per ton for each ton of  
waste received at Brooks Construction and Demolition Landfill other than waste received from the City of  
Wichita, that is as per the bid **BP300125/ FP000015** and specifications on June 6, 2001; and subsequently  
amended on the 20<sup>th</sup> day of January, 2005; and subsequently amended on the 18<sup>th</sup> day of October, 2011; and  
subsequently amended on the 28<sup>th</sup> day of February, 2012.

**WHEREAS**, the specifications for the bid **BP300125/FP000015** specified the terms of the contract were  
to be fulfilled until October 10, 2006 and with one additional five year extension period granted, which shall end  
on October 10, 2011;

**NOW, THEREFORE**, the above named parties hereby agree, covenant and contract with each other that  
the terms of the original contract dated the 6<sup>th</sup> day of June, 2001, with subsequent amendments, are hereby  
reaffirmed and re-executed for and on behalf of these parties with the following amendment, modification and  
change.

**Extend the terms of this Contract until December 28, 2012.**

**The Contract rate will be \$14.00 of the \$31.00 tipping fee is retained by the CONTRACTOR operating the  
facility.**

**No Arbitration.** The **CONTRACTOR** and the **CITY** shall not be obligated to resolve any claim or  
dispute related to the Contract by arbitration. Any reference to arbitration in bid or proposal documents is deemed  
void.

**Representative’s Authority to Contract.** By signing this contract, the representative of the contractor or  
vendor represents that he or she is duly authorized by the contractor or vendor to execute this contract, and that  
the contractor or vendor has agreed to be bound by all its provisions.

**IN WITNESS WHEREOF**, the parties hereto have executed this contract amendment the day and year  
first above written.

**ATTEST:**

**THE CITY OF WICHITA**

---

Karen Sublett  
City Clerk

---

Carl G. Brewer  
Mayor

**APPROVED AS TO FORM:**

---

Gary E. Rebenstorf  
Director of Law

---

Signature

---

Print Signature Name



## **Exhibit A**

### **REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS**

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
  - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
  - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
  - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  - 5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
  - 1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
  - 2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants

will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;

3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.
5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

**Second Reading Ordinances for May 8, 2012 (first read on May 1, 2012)**

**A. Amendments to Criminal Code, Chapter 5 of the Code of the City of Wichita Relating to Crime and Punishment for criminal Offenses.**

**ORDINANCE NO. 49-256**

An Ordinance amending Sections 5.01.020, 5.10.010, 5.10.020, 5.10.025, 5.10.035, 5.15.010, 5.24.010, 5.24.040, 5.26.020, 5.28.010, 5.30.020, 5.32.010, 5.36.030, 5.38.036, 5.42.010, 5.42.015, 5.42.020, 5.42.035, 5.42.060, 5.44.040, 5.66.010, 5.66.050, 5.68.005, 5.68.020, 5.68.030, 5.68.110, 5.68.120, 5.68.140, 5.68.150, 5.68.155, 5.68.156, 5.68.170, 5.68.180, 5.68.190, 5.68.200, 5.68.215, 5.68.220, 5.72.010, 5.73.050, 5.75.010, 5.75.020, 5.82.010, 5.88.020 and 5.88.030 creating sections 5.26.038, 5.26.039, 5.37.030, 5.42.005, 5.42.065, 5.85.010 and 5.85.020 of the code of the City of Wichita, Kansas, pertaining to public safety and morals and repealing the originals of sections 5.01.020, 5.10.010, 5.10.020, 5.10.025, 5.10.035, 5.15.010, 5.24.010, 5.24.040, 5.26.020, 5.28.010, 5.30.020, 5.32.010, 5.36.030, 5.38.036, 5.42.010, 5.42.015, 5.42.020, 5.42.035, 5.42.060, 5.44.040, 5.66.010, 5.66.050, 5.68.020, 5.68.030, 5.68.110, 5.68.120, 5.68.140, 5.68.150, 5.68.155, 5.68.156, 5.68.170, 5.68.180, 5.68.190, 5.68.200, 5.68.215, 5.68.220, 5.72.010, 5.73.050, 5.75.010, 5.75.020, 5.82.010, 5.88.020 and 5.88.030 of the Code of the City of Wichita, Kansas.

**B. Amendments to Chapter 3.94 of the City Code relating to Farmers Markets approval of changes to Wichita Farmers Market Vendors Assoc, LLC Lease Agreement.**

**ORDINANCE NO. 49-267**

An ordinance amending Sections 3.94.060, 3.94.100 and 3.94.130 of the code of the City of Wichita, Kansas, pertaining to organized farmers markets and the licensing thereof.

City of Wichita  
City Council Meeting  
May 8, 2012

**TO:** Mayor and City Council

**SUBJECT:** SUB2012-00001 -- Plat of Woods North 3<sup>rd</sup> Addition located on the southwest corner of 29<sup>th</sup> Street North and 127<sup>th</sup> Street East. (District II)

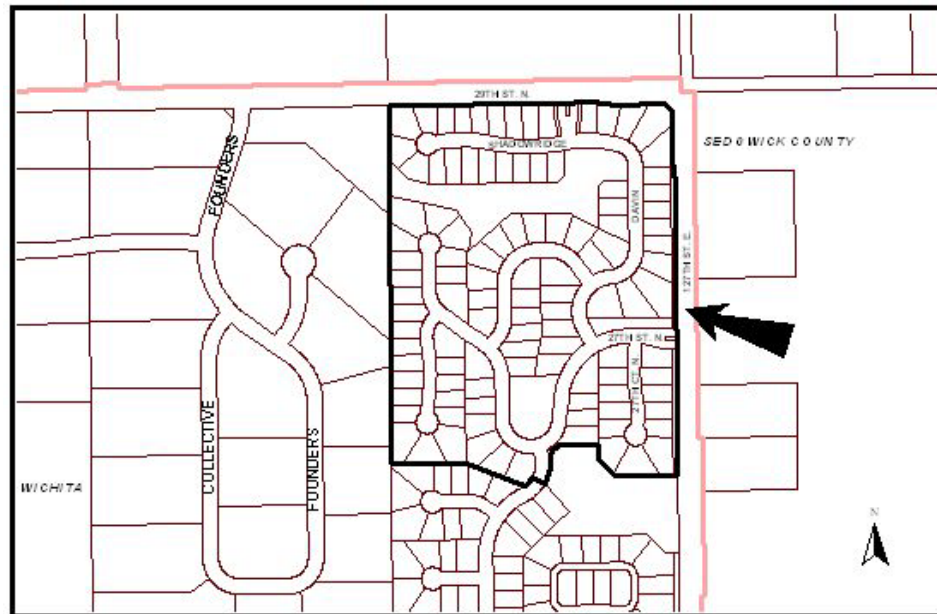
**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA:** Planning (Consent)

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**Staff Recommendation:** Approve the plat.

**MAPC Recommendation:** Approve the plat. (10-0)



**Background:** The site, consisting of 113 lots on 46.42 acres, is a plat of the Woods North Addition. The site is located within Wichita and is zoned SF-5 Single-family Residential.

**Analysis:** The applicant has submitted 100 percent Petitions and a Certificate of Petitions for sewer, water, paving and drainage improvements. The applicant has submitted a Restrictive Covenant to provide for the ownership and maintenance of the reserves.

**Financial Considerations:** There are no financial considerations associated with the plat.

**Goal Impact:** Approval of the plat will ensure Efficient Infrastructure through the integration of streets, utilities and other public facilities.

**Legal Considerations:** The Certificate of Petitions, Restrictive Covenant and Resolutions have been approved as to form by the Law Department and will be recorded with the Register of Deeds.

**Recommendations/Actions:** It is recommended that the City Council approve the documents and plat, authorize the necessary signatures and adopt the Resolutions.

**Attachments:** Certificate of Petitions  
Restrictive Covenant  
Resolutions



COPY

**CERTIFICATE OF PETITION**

STATE OF KANSAS                    )  
COUNTY OF SEDGWICK    )   SS:

We, Greenwich/4, LLC, a Kansas Limited Liability Company, Ritchie Development Corporation, a Kansas Corporation, and Firethorne, L.L.C., a Kansas limited liability company, owners of WOODS NORTH 3<sup>RD</sup> ADDITION, Wichita, Sedgwick County, Kansas, do hereby certify that petition(s) for the following improvements have been submitted to the City Council of the City of Wichita, Kansas:

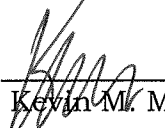
1. Sanitary Sewer Improvements
2. Water Line Improvements
3. Water Main Improvements
4. Pavement Improvements
5. Storm Water Drain Improvements
6. Paving Improvements on 127<sup>th</sup> Street East

As a result of the above-mentioned petition(s) for improvements, all lots or portions thereof within Woods North 3<sup>rd</sup> Addition, may be subject to special assessments assessed thereto for the cost of constructing the above-described improvements.

Signed this 15<sup>th</sup> day of March, 2012.


Greenwich/4, LLC

By:   Ritchie Associates, Inc., Manager


By:   
Kevin M. Mullen, President

Firethorne, L.L.C.

By:   Ritchie Development Corporation,  
sole member of Firethorne, L.L.C.

By:   
Kevin M. Mullen, President

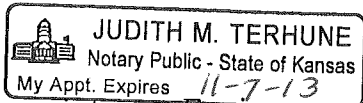
Ritchie Development Corporation

By:   
Kevin M. Mullen, President

STATE OF KANSAS                    )  
COUNTY OF SEDGWICK        )        SS:

BE IT REMEMBERED, that on this 15<sup>th</sup> day of March, 2012, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Kevin M. Mullen, President of Ritchie Associates, Inc., a Kansas Corporation, as Manager of Greenwich/4, LLC, a Kansas Limited Liability Company, personally known to me to be the same persons who executed the within instrument of writing and such persons duly acknowledged the execution of the same on behalf, and as the act and deed of said limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.



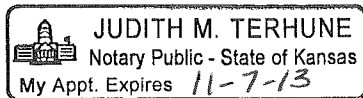
(My Appointment Expires: 11-7-13)

Judith M. Terhune  
Notary Public

STATE OF KANSAS                    )  
COUNTY OF SEDGWICK        )        SS:

BE IT REMEMBERED, that on this 15<sup>th</sup> day of March, 2012, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Kevin M. Mullen, President of Ritchie Development Corporation, a Kansas Corporation, personally known to me to be the same persons who executed the within instrument of writing and such persons duly acknowledged the execution of the same on behalf, and as the act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.



(My Appointment Expires: 11-7-13)

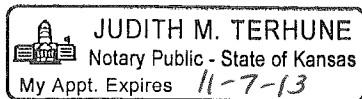
Judith M. Terhune  
Notary Public

Certificate of Petition  
Page 3 of 3

STATE OF KANSAS            )  
COUNTY OF SEDGWICK    )       SS:

BE IT REMEMBERED, that on this 15<sup>th</sup> day of March, 2012, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Kevin M. Mullen, President of Ritchie Development Corporation, a Kansas Corporation, sole member of Firethorne, L.L.C., a Kansas Limited Liability Company, personally known to me to be the same persons who executed the within instrument of writing and such persons duly acknowledged the execution of the same on behalf, and as the act and deed of said limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.



Judith M. Terhune  
Notary Public

(My Appointment Expires: 11-7-13)

Approved as to form:

\_\_\_\_\_  
Gary E. Rebenstorf, Director of Law

COPY

**RESTRICTIVE COVENANT**

THIS DECLARATION made this 15<sup>th</sup> day of March, 2012, by Greenwich/4, LLC, a Kansas Limited Liability Company, Ritchie Development Corporation, a Kansas Corporation, and Firethorne, L.L.C., a Kansas Limited Liability Company, hereinafter called "Declarant",

WITNESSETH

WHEREAS, Declarant is the owner of the following described property:

**WOODS NORTH 3<sup>RD</sup> ADDITION**

Lots 1 through 21, Block A  
Lots 1 through 18, Block B  
Lots 1 through 24, Block C  
Lots 1 through 50, Block D

WHEREAS, Declarant is desirous in connection therewith that various provisions for the maintenance and responsibility for the maintenance be placed of record for Reserves "A", "B", "C", "D", "E", "F", "G", and "H", Woods North 3<sup>rd</sup> Addition, Wichita, Sedgwick County, Kansas.

NOW, THEREFORE, Declarant hereby declares and covenants:

1. That Reserve "A" is hereby reserved for open space, landscaping, entry monuments, streets, utilities, drainage purposes, and pipelines as confined to easement.

Reserve "B" is hereby reserved for open space, landscaping, entry monuments, streets, utilities, and drainage purposes. The public shall not bear the cost of any repair or replacement of improvements within said Reserves "A" and "B", adversely affected by street construction, repair, or maintenance.

Reserves "C" and "D" are hereby reserved for open space, landscaping, utilities as confined to easements, and pipelines as confined to easement.

Restrictive Covenant  
Page 2 of 5

Reserve "E" is hereby reserved for landscaping, open space, berms, lakes, sidewalks, drainage purposes, and utilities as confined to easements.

Reserve "F" is hereby reserved for entry monuments, berms, landscaping, open space, playgrounds, swimming pools and related facilities, parking, sidewalks, drainage purposes, and utilities as confined to easements.

Reserves "G" and "H" are hereby reserved for entry monuments, open space, landscaping, and drainage purposes.

Reserves "A", "B", "C", "D", "E", "F", "G", and "H" shall be owned and maintained by the homeowners association for the addition provided, however, that the undersigned, or the homeowners association, as the undersigned's successor in interest, may, in their discretion, deed a parcel of a Reserve to an owner or owners of an adjacent lot, subject to the obligation to maintain such deeded parcel of a Reserve in compliance with the provisions hereof and in compliance with the maintenance covenants of any applicable restrictive covenants and/or regulations.

2. That a Homeowner's Association shall be formed and incorporated as a non-profit corporation at the Declarant's sole cost. Reserves "A", "B", "C", "D", "E", "F", "G", and "H", as designated on the plat of Woods North 3<sup>rd</sup> Addition, shall be deeded to the Homeowner's Association upon its incorporation or within 30 days thereafter.

3. That the declaration of covenants and other provisions of the Homeowner's Association being formed shall provide specific pertinent language requiring that the Homeowner's Association shall include the first or any other subsequent phase or phases for the maintenance of any and all common areas contiguous to Reserves "A", "B", "C", "D", "E", "F", "G", and "H" to Woods North 3<sup>rd</sup> Addition under the same scope of responsibility as the initial phase of development.

4. That the owners hereby grant an irrevocable easement to whichever appropriate governing body or authority has jurisdiction, to enter upon the Reserves, as defined, for the purposes of maintaining such Reserves. This easement is conditioned upon the following event or events happening:

A. That the Declarant or the Homeowners Association, as may be appropriate, has failed to maintain the reserves in a reasonable and prudent manner.  
and,

B. That the appropriate governing body has given written notice to the Declarant or the Homeowners Association and neither entity has responded in initiating corrective action within thirty (30) days of such notice. If the governing body has taken action to maintain the reserve under this covenant, the Declarant or

Homeowners Association shall pay promptly the costs expended. If the costs are not paid within thirty (30) days of the rendering of an account, the costs shall be considered an assessment against all lots in Woods North 3<sup>rd</sup> Addition, and shall be considered a lien thereon and be treated in the same manner as a special assessment.

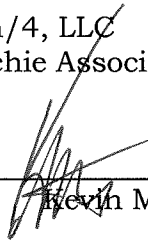
5. That Woods North 3<sup>rd</sup> Addition, being a re-plat of a part of Woods North Addition, will continue to share in the ownership and maintenance responsibilities of any such previously platted reserves.

This covenant shall be binding on the owner, their heirs, or successors or assigns and is a covenant running with the land and is binding on all successors in Lots in WOODS NORTH 3<sup>RD</sup> ADDITION, Wichita, Sedgwick County, Kansas.

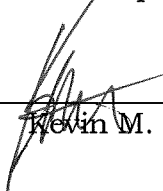
The covenants, conditions, and restrictions on the property created and established in this instrument may be waived, terminated, or modified only upon written consent of the City of Wichita. No such waiver, termination or modification shall be effective until such written consent is recorded in the office of the Register of Deeds for Sedgwick County, Kansas.

EXECUTED the day and year first written.


Greenwich/4, LLC  
By: Ritchie Associates, Inc., Manager

By: \_\_\_\_\_  
Kevin M. Mullen, President

Ritchie Development Corporation

By: \_\_\_\_\_  
Kevin M. Mullen, President

Firethorne, L.L.C.  
By: Ritchie Development, Corporation,  
sole member

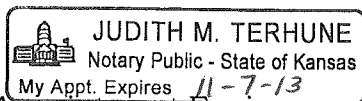
By: \_\_\_\_\_  
Kevin M. Mullen, President

Restrictive Covenant  
Page 4 of 5

STATE OF KANSAS            )  
COUNTY OF SEDGWICK    )       SS:

BE IT REMEMBERED, that on this 15<sup>th</sup> day of March, 2012, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Kevin M. Mullen, as President of Ritchie Associates, Inc., a Kansas Corporation, as Manager of Greenwich/4, LLC, a Kansas Limited Liability Company, personally known to me to be the same persons who executed the within instrument of writing and such persons duly acknowledged the execution of the same on behalf, and as the act and deed of said limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.



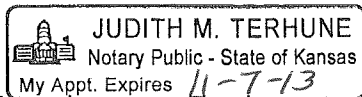
(My Appointment Expires: 11-7-13 )

Judith M. Terhune  
Notary Public

STATE OF KANSAS            )  
COUNTY OF SEDGWICK    )       SS:

BE IT REMEMBERED, that on this 15<sup>th</sup> day of March, 2012, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Kevin M. Mullen, as President of Ritchie Development Corporation, a Kansas Corporation, personally known to me to be the same persons who executed the within instrument of writing and such persons duly acknowledged the execution of the same on behalf, and as the act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.



(My Appointment Expires: 11-7-13 )

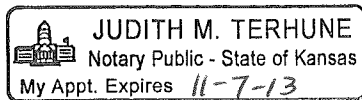
Judith M. Terhune  
Notary Public

Restrictive Covenant  
Page 5 of 5

STATE OF KANSAS            )  
COUNTY OF SEDGWICK    )       SS:

BE IT REMEMBERED, that on this 15<sup>th</sup> day of March, 2012, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Kevin M. Mullen, President of Ritchie Development Corporation, a Kansas Corporation, sole member of Firethorne, L.L.C., a Kansas Limited Liability Company, personally known to me to be the same persons who executed the within instrument of writing and such persons duly acknowledged the execution of the same on behalf, and as the act and deed of said limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.



Judith M. Terhune  
Notary Public

(My Appointment Expires: 11-7-13 )

Approved as to form:

\_\_\_\_\_  
Gary E. Rebenstorf, Director of Law



First Published in the Wichita Eagle on May 11, 2012

**RESOLUTION NO. 12-099**

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF **LATERAL 429, FOUR MILE CREEK SEWER (SOUTH OF 29TH ST. NORTH, WEST OF 127TH ST. EAST) 468-84821** IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF THE CONSTRUCTION OF **LATERAL 429, FOUR MILE CREEK SEWER (SOUTH OF 29TH ST. NORTH, WEST OF 127TH ST. EAST) 468-84821** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to construct **Lateral 429, Four Mile Creek Sewer (south of 29th St. North, west of 127th St. East) 468-84821**.

Said sanitary sewer shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be **One Hundred Thirty Thousand Dollars (\$130,000)** exclusive of the cost of interest on borrowed money, with **91.54** percent payable by the improvement district and **8.46** percent of the total cost payable by the City of Wichita from Water and Sewer Department Sewer Utility Improvement Funds. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after **April 1, 2012**, exclusive of the costs of temporary financing.

That, in accordance with the provisions of K.S.A. 12-6a19, a benefit fee be assessed against the improvement district with respect to the improvement district's share of the cost of the existing sanitary sewer main, such benefit fee to be in the amount of Eighteen Thousand Seven Hundred Forty-Five Dollars (\$18,745).

SECTION 3. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

**WOODS NORTH 3RD ADDITION**

Lots 4 through 16, Block A

Lots 1 through 18, Block B

SECTION 4. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a **fractional** basis.

The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lots 4 through 16, Block A, and Lots 1 through 18, Block B, WOODS NORTH 3RD ADDITION shall each pay 1/31 of the total cost of the improvements.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 5. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 6 That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 7. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 8. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 9. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 8th day of May, 2012.

---

CARL BREWER, MAYOR

ATTEST:

---

KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

---

GARY E. REBENSTORF  
DIRECTOR OF LAW

First Published in the Wichita Eagle on May 11, 2012

**RESOLUTION NO. 12-100**

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING THE IMPROVEMENT OF **WATER DISTRIBUTION SYSTEM NUMBER 448-90555 (SOUTH OF 29TH ST. NORTH, WEST OF 127TH ST. EAST)** IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF IMPROVING **WATER DISTRIBUTION SYSTEM NUMBER 448-90555 (SOUTH OF 29TH ST. NORTH, WEST OF 127TH ST. EAST)** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to improve **Water Distribution System Number 448-90555 (south of 29th St. North, west of 127th St. East)**.

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be **Sixty-Nine Thousand Dollars (\$69,000)** exclusive of the cost of interest on borrowed money, with **100** percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after **April 1, 2012**, exclusive of the costs of temporary financing.

SECTION 3. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

**WOODS NORTH 3RD ADDITION**

Lots 10 through 21, Block A

Lots 34 through 50, Block D

SECTION 4. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a **fractional** basis.

The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lots 10 through 21, Block A, and Lots 34 through 50, Block D, WOODS NORTH 3RD ADDITION shall each pay 1/29 of the total cost of the improvement.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 5. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 6. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 7. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 8. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 9. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 8<sup>th</sup> day of May, 2012.

---

CARL BREWER, MAYOR

ATTEST:

---

KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

---

GARY E. REBENSTORF,  
DIRECTOR OF LAW

First Published in the Wichita Eagle on May 11, 2012

**RESOLUTION NO. 12-101**

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTING PAVEMENT ON **WOODRIDGE FROM THE NORTH LINE OF LOT 34, BLOCK D, NORTH, EAST AND NORTH TO THE NORTH LINE OF LOT 9, BLOCK C AND ON WOODRIDGE CT. (LOTS 10 THROUGH 16, BLOCK C) FROM THE EAST LINE OF WOODRIDGE, SOUTHEASTERLY TO AND INCLUDING THE CUL-DE-SAC AND THAT SIDEWALK BE CONSTRUCTED ON WOODRIDGE (SOUTH OF 29TH ST. NORTH, WEST OF 127TH ST. EAST), 472-85048** IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF AUTHORIZING CONSTRUCTING PAVEMENT ON **WOODRIDGE FROM THE NORTH LINE OF LOT 34, BLOCK D, NORTH, EAST AND NORTH TO THE NORTH LINE OF LOT 9, BLOCK C AND ON WOODRIDGE CT. (LOTS 10 THROUGH 16, BLOCK C) FROM THE EAST LINE OF WOODRIDGE, SOUTHEASTERLY TO AND INCLUDING THE CUL-DE-SAC AND THAT SIDEWALK BE CONSTRUCTED ON WOODRIDGE (SOUTH OF 29TH ST. NORTH, WEST OF 127TH ST. EAST), 472-85048** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to pave **Woodridge from the north line of Lot 34, Block D, north, east and north to the north line of Lot 9, Block C and on Woodridge Ct. (Lots 10 through 16, Block C) from the east line of Woodridge, southeasterly to and including the cul-de-sac and that sidewalk be constructed on Woodridge (south of 29th St. North, west of 127th St. East), 472-85048.**

Said pavement shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be **Two Hundred Eighty-Nine Thousand Dollars (\$289,000)** exclusive of the cost of interest on borrowed money, with 100 Percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after **April 1, 2012**, exclusive of the costs of temporary financing.

SECTION 3. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

**WOODS NORTH 3RD ADDITION**

Lots 9 through 24, Block C

Lots 22 through 33, Block D

SECTION 4. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a fractional basis.

The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lots 9 through 24, Block C, and Lots 22 through 33, Block D, **WOODS NORTH 3RD ADDITION**, shall each pay 1/28 of the total cost of the improvements.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis. Except when driveways are requested to serve a particular tract, lot or parcel, the cost of said driveway shall be in addition to the assessment for other improvements.

SECTION 5. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 6. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 7. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 1980 Supp. 12-6a01 et seq.

SECTION 8. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 9. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas this 8th day of

May, 2012.

---

CARL BREWER, MAYOR

ATTEST:

---

KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

---

GARY E. REBENSTORF  
DIRECTOR OF LAW



First Published in the Wichita Eagle on May 11, 2012

**RESOLUTION NO. 12-102**

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING THE IMPROVEMENT OF **WATER DISTRIBUTION SYSTEM NUMBER 448-90554 (SOUTH OF 29TH ST. NORTH, WEST OF 127TH ST. EAST)** IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF IMPROVING **WATER DISTRIBUTION SYSTEM NUMBER 448-90554 (SOUTH OF 29TH ST. NORTH, WEST OF 127TH ST. EAST)** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to improve **Water Distribution System Number 448-90554 (south of 29th St. North, west of 127th St. East)**.

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be **Eighty-Three Thousand Dollars (\$83,000)** exclusive of the cost of interest on borrowed money, with **100** percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after **April 1, 2012**, exclusive of the costs of temporary financing.

SECTION 3. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

**WOODS NORTH 3RD ADDITION**

Lots 1 through 9, Block A

Lots 1 through 18, Block B

SECTION 4. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a **fractional** basis.

The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lots 1 through 9, Block A, and Lots 1 through 18, Block B, WOODS NORTH 3RD ADDITION shall each pay 1/27 of the total cost of the improvement.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 5. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 6. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 7. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 8. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 9. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 8<sup>th</sup> day of May, 2012.

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CARL BREWER, MAYOR

ATTEST:

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KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

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GARY E. REBENSTORF,  
DIRECTOR OF LAW

First Published in the Wichita Eagle on May 11, 2012

**RESOLUTION NO. 12-103**

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTING PAVEMENT ON **27TH ST. NORTH** FROM THE WEST LINE OF LOT 9, BLOCK A, WEST TO THE WEST LINE OF THE PLAT, AND ON **WOODRIDGE** FROM THE NORTH LINE OF 27TH ST. NORTH, NORTH TO THE NORTH LINE OF LOT 34, BLOCK D AND ON 27TH CT. NORTH (LOTS 13 THROUGH 21, BLOCK A) FROM THE SOUTH LINE OF 27TH ST. NORTH, SOUTH TO AND INCLUDING THE CUL-DE-SAC, AND ON 27TH CT. NORTH, (LOTS 35 THROUGH 50, BLOCK D) FROM THE NORTH LINE OF 27TH ST. NORTH, NORTH TO AND INCLUDING THE CUL-DE-SAC AND THAT SIDEWALK BE CONSTRUCTED ON WOODRIDGE AND 27TH ST. NORTH (SOUTH OF 29TH ST. NORTH, WEST OF 127TH ST. EAST), 472-85047 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF AUTHORIZING CONSTRUCTING PAVEMENT ON **27TH ST. NORTH** FROM THE WEST LINE OF LOT 9, BLOCK A, WEST TO THE WEST LINE OF THE PLAT, AND ON **WOODRIDGE** FROM THE NORTH LINE OF 27TH ST. NORTH, NORTH TO THE NORTH LINE OF LOT 34, BLOCK D AND ON 27TH CT. NORTH (LOTS 13 THROUGH 21, BLOCK A) FROM THE SOUTH LINE OF 27TH ST. NORTH, SOUTH TO AND INCLUDING THE CUL-DE-SAC, AND ON 27TH CT. NORTH, (LOTS 35 THROUGH 50, BLOCK D) FROM THE NORTH LINE OF 27TH ST. NORTH, NORTH TO AND INCLUDING THE CUL-DE-SAC AND THAT SIDEWALK BE CONSTRUCTED ON WOODRIDGE AND 27TH ST. NORTH (SOUTH OF 29TH ST. NORTH, WEST OF 127TH ST. EAST), 472-85047 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to pave **27th St. North** from the west line of Lot 9, Block A, west to the west line of the plat, and on **Woodridge** from the north line of 27th St. North, north to the north line of Lot 34, Block D and on 27th Ct. North (Lots 13 through 21, Block A) from the south line of 27th St. North, south to and including the cul-de-sac, and on 27th Ct. North, (Lots 35 through 50, Block D) from the north line of 27th St. North, north to and including the cul-de-sac and that sidewalk be constructed on Woodridge and 27th St. North (south of 29th St. North, west of 127th St. East), 472-85047.

Said pavement shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be **Three Hundred Forty-Six Thousand Dollars (\$346,000)** exclusive of the cost of interest on borrowed money, with 100 Percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after **April 1, 2012**, exclusive of the costs of temporary financing.

SECTION 3. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

**WOODS NORTH 3RD ADDITION**

Lots 10 through 21, Block A  
Lots 34 through 50, Block D

SECTION 4. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a fractional basis.

The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lots 10 through 21, Block A, and Lots 34 through 50, Block D, **WOODS NORTH 3RD ADDITION**, shall each pay 1/29 of the total cost of the improvements.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis. Except when driveways are requested to serve a particular tract, lot or parcel, the cost of said driveway shall be in addition to the assessment for other improvements.

SECTION 5. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 6. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 7. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 1980 Supp. 12-6a01 et seq.

SECTION 8. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 9. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas this 8th day of  
May, 2012.

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CARL BREWER, MAYOR

ATTEST:

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KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

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GARY E. REBENSTORF  
DIRECTOR OF LAW

First Published in the Wichita Eagle on May 11, 2012

**RESOLUTION NO. 12-104**

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF **LATERAL 432, FOUR MILE CREEK SEWER (SOUTH OF 29TH ST. NORTH, WEST OF 127TH ST. EAST) 468-84824** IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF THE CONSTRUCTION OF **LATERAL 432, FOUR MILE CREEK SEWER (SOUTH OF 29TH ST. NORTH, WEST OF 127TH ST. EAST) 468-84824** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to construct **Lateral 432, Four Mile Creek Sewer (south of 29th St. North, west of 127th St. East) 468-84824**.

Said sanitary sewer shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be **One Hundred Thirty Thousand Dollars (\$130,000)** exclusive of the cost of interest on borrowed money, with **100** percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after **April 1, 2012**, exclusive of the costs of temporary financing.

That, in accordance with the provisions of K.S.A. 12-6a19, a benefit fee be assessed against the improvement district with respect to the improvement district's share of the cost of the existing sanitary sewer main, such benefit fee to be in the amount of Twelve Thousand Five Hundred Twenty-Nine Dollars (\$12,529).

SECTION 3. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

**WOODS NORTH 3RD ADDITION**

Lots 1 through 3, Block C

Lots 1 through 19, Block D

SECTION 4. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a **fractional** basis.

The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lots 1 through 3, Block C, and Lots 1 through 19, Block D, WOODS NORTH 3RD ADDITION shall each pay 1/22 of the total cost of the improvements.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 5. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 6 That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 7. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 8. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 9. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 8th day of May, 2012.

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CARL BREWER, MAYOR

ATTEST:

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KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

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GARY E. REBENSTORF  
DIRECTOR OF LAW



First Published in the Wichita Eagle on May 11, 2012

**RESOLUTION NO. 12-105**

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTING PAVEMENT ON WOODRIDGE FROM THE SOUTH LINE OF THE PLAT, NORTH TO THE SOUTH LINE OF 27TH ST. NORTH; AND ON 27TH ST. NORTH FROM THE WEST LINE OF LOT 9, BLOCK A, EAST TO THE EAST LINE OF THE PLAT AND ON WOODRIDGE CT. (LOTS 1 THROUGH 7, BLOCK A) FROM THE WEST LINE OF WOODRIDGE WEST TO AND INCLUDING THE CUL-DE-SAC, AND ON 27TH CT. NORTH, (LOTS 1 THROUGH 13, BLOCK B) FROM THE SOUTH LINE OF 27TH ST. NORTH SOUTH TO AND INCLUDING THE CUL-DE-SAC AND THAT SIDEWALK BE CONSTRUCTED ON WOODRIDGE AND 27TH ST. NORTH (SOUTH OF 29TH ST. NORTH, WEST OF 127TH ST. EAST), 472-85046 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF AUTHORIZING CONSTRUCTING PAVEMENT ON WOODRIDGE FROM THE SOUTH LINE OF THE PLAT, NORTH TO THE SOUTH LINE OF 27TH ST. NORTH; AND ON 27TH ST. NORTH FROM THE WEST LINE OF LOT 9, BLOCK A, EAST TO THE EAST LINE OF THE PLAT AND ON WOODRIDGE CT. (LOTS 1 THROUGH 7, BLOCK A) FROM THE WEST LINE OF WOODRIDGE WEST TO AND INCLUDING THE CUL-DE-SAC, AND ON 27TH CT. NORTH, (LOTS 1 THROUGH 13, BLOCK B) FROM THE SOUTH LINE OF 27TH ST. NORTH SOUTH TO AND INCLUDING THE CUL-DE-SAC AND THAT SIDEWALK BE CONSTRUCTED ON WOODRIDGE AND 27TH ST. NORTH (SOUTH OF 29TH ST. NORTH, WEST OF 127TH ST. EAST), 472-85046 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to pave Woodridge from the south line of the plat, north to the south line of 27th St. North; and on 27th St. North from the west line of Lot 9, Block A, east to the east line of the plat and on Woodridge Ct. (Lots 1 through 7, Block A) from the west line of Woodridge west to and including the cul-de-sac, and on 27th Ct. North, (Lots 1 through 13, Block B) from the south line of 27th St. North south to and including the cul-de-sac and that sidewalk be constructed on Woodridge and 27th St. North (south of 29th St. North, west of 127th St. East), 472-85046.

Said pavement shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be **Four Hundred Forty-Nine Thousand Dollars (\$449,000)** exclusive of the cost of interest on borrowed money, with 100 Percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after **April 1, 2012**, exclusive of the costs of temporary financing.

SECTION 3. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

**WOODS NORTH 3RD ADDITION**

Lots 1 through 16, Block A  
Lots 1 through 18, Block B  
Lots 1 through 24, Block C  
Lots 1 through 34, Block D

SECTION 4. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a fractional basis.

The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lots 1 through 3, Block A, WOODS NORTH 3RD ADDITION, shall each pay 2,749/100,000 of the total cost of the improvements; Lots 4 through 9, Block A, and Lots 1 through 18, Block B, WOODS NORTH 3RD ADDITION shall each pay 2,871/100,000 of the total cost of the improvements; Lots 10 through 12, Block A, WOODS NORTH 3RD ADDITION shall each pay 324/100,000 of the total cost of the improvements; Lots 13 through 16, Block A, WOODS NORTH 3RD ADDITION shall each pay 94/100,000 of the total cost of the improvements; Lots 1 through 3, Block C, and Lots 1 through 19, Block D, WOODS NORTH 3RD ADDITION shall each pay 298/100,000 of the total cost of the improvements; Lots 4 through 8, Block C, and Lots 20 and 21, Block D, WOODS NORTH 3RD ADDITION shall each pay 194/100,000 of the total cost of the improvements; Lots 9 through 20, Block C, and Lots 22 through 26, Block D, WOODS NORTH 3RD ADDITION shall each pay 293/100,000 of the total cost of the improvements; Lots 21 through 24, Block C, and Lots 27 through 33, Block D, WOODS NORTH 3RD ADDITION shall each pay 757/100,000 of the total cost of the improvements; and Lot 34, Block D, WOODS NORTH 3RD ADDITION shall pay 274/100,000 of the total cost of the improvements.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis. Except when driveways are requested to serve a particular tract, lot, or parcel, the cost of said driveway shall be in addition to the assessment to said tract, lot, or parcel and shall be in addition to the assessment for other improvements.

SECTION 5. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 6. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 7. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 1980 Supp. 12-6a01 et seq.

SECTION 8. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 9. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas this 8th day of  
May, 2012.

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CARL BREWER, MAYOR

ATTEST:

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KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

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GARY E. REBENSTORF,  
DIRECTOR OF LAW

First Published in the Wichita Eagle on May 11, 2012

**RESOLUTION NO. 12-106**

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF **LATERAL 431, FOUR MILE CREEK SEWER (SOUTH OF 29TH ST. NORTH, WEST OF 127TH ST. EAST) 468-84823** IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF THE CONSTRUCTION OF **LATERAL 431, FOUR MILE CREEK SEWER (SOUTH OF 29TH ST. NORTH, WEST OF 127TH ST. EAST) 468-84823** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to construct **Lateral 431, Four Mile Creek Sewer (south of 29th St. North, west of 127th St. East) 468-84823**.

Said sanitary sewer shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be **One Hundred Seventy-Seven Thousand Dollars (\$177,000)** exclusive of the cost of interest on borrowed money, with **85.88** percent payable by the improvement district and **14.12** percent of the total cost payable by the City of Wichita from Water and Sewer Department Sewer Utility Improvement Funds. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after **April 1, 2012**, exclusive of the costs of temporary financing.

That, in accordance with the provisions of K.S.A. 12-6a19, a benefit fee be assessed against the improvement district with respect to the improvement district's share of the cost of the existing sanitary sewer main, such benefit fee to be in the amount of Fourteen Thousand Seven Hundred Fifty Dollars (\$14,750).

SECTION 3. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

**WOODS NORTH 3RD ADDITION**

Lots 4 through 20, Block C

Lots 20 through 26, Block D

SECTION 4. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a **fractional** basis.

The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lots 4 through 20, Block C, and Lots 20 through 26, Block D, WOODS NORTH 3RD ADDITION shall each pay 1/24 of the total cost of the improvements.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 5. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 6 That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 7. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 8. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 9. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 8th day of May, 2012.

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CARL BREWER, MAYOR

ATTEST:

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KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

---

GARY E. REBENSTORF  
DIRECTOR OF LAW

First Published in the Wichita Eagle on May 11, 2012

**RESOLUTION NO. 12-107**

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING THE IMPROVEMENT OF **WATER DISTRIBUTION SYSTEM NUMBER 448-90557 (SOUTH OF 29TH ST. NORTH, WEST OF 127TH ST. EAST)** IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF IMPROVING **WATER DISTRIBUTION SYSTEM NUMBER 448-90557 (SOUTH OF 29TH ST. NORTH, WEST OF 127TH ST. EAST)** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to improve **Water Distribution System Number 448-90557 (south of 29th St. North, west of 127th St. East)**.

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be **Fifty-Eight Thousand Dollars (\$58,000)** exclusive of the cost of interest on borrowed money, with **100** percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after **April 1, 2012**, exclusive of the costs of temporary financing.

SECTION 3. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

**WOODS NORTH 3RD ADDITION**

Lots 1 through 8, Block C

Lots 1 through 21, Block D

SECTION 4. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a **fractional** basis.

The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lots 1 through 8, Block C, and Lots 1 through 21, Block D, WOODS NORTH 3RD ADDITION shall each pay 1/29 of the total cost of the improvement.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 5. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 6. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 7. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 8. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 9. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 8<sup>th</sup> day of May, 2012.

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CARL BREWER, MAYOR

ATTEST:

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KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

---

GARY E. REBENSTORF,  
DIRECTOR OF LAW



First Published in the Wichita Eagle on May 11, 2012

**RESOLUTION NO. 12-108**

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF **LATERAL 430, FOUR MILE CREEK SEWER (SOUTH OF 29TH ST. NORTH, WEST OF 127TH ST. EAST) 468-84822** IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF THE CONSTRUCTION OF **LATERAL 430, FOUR MILE CREEK SEWER (SOUTH OF 29TH ST. NORTH, WEST OF 127TH ST. EAST) 468-84822** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to construct **Lateral 430, Four Mile Creek Sewer (south of 29th St. North, west of 127th St. East) 468-84822**.

Said sanitary sewer shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be **One Hundred Fifty Thousand Dollars (\$150,000)** exclusive of the cost of interest on borrowed money, with **94.13** percent payable by the improvement district and **5.87** percent of the total cost payable by the City of Wichita from Water and Sewer Department Sewer Utility Improvement Funds. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after **April 1, 2012**, exclusive of the costs of temporary financing.

That, in accordance with the provisions of K.S.A. 12-6a19, a benefit fee be assessed against the improvement district with respect to the improvement district's share of the cost of the existing sanitary sewer main, such benefit fee to be in the amount of Nineteen Thousand Three Hundred Twenty-Nine. Dollars (\$19,329).

SECTION 3. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

**WOODS NORTH 3RD ADDITION**

Lots 17 through 21, Block A

Lots 21 through 24, Block C

Lots 27 through 50, Block D

SECTION 4. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a **fractional** basis.

The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lots 17 through 21, Block A, Lots 21 through 24, Block C and Lots 27 through 50, Block D, WOODS NORTH 3RD ADDITION shall each pay 1/33 of the total cost of the improvements.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 5. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 6 That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 7. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 8. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 9. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 8th day of May, 2012.

---

CARL BREWER, MAYOR

ATTEST:

---

KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

---

GARY E. REBENSTORF  
DIRECTOR OF LAW

First Published in the Wichita Eagle on May 11, 2012

**RESOLUTION NO. 12-109**

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING THE IMPROVEMENT OF **WATER DISTRIBUTION SYSTEM NUMBER 448-90556 (SOUTH OF 29TH ST. NORTH, WEST OF 127TH ST. EAST)** IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF IMPROVING **WATER DISTRIBUTION SYSTEM NUMBER 448-90556 (SOUTH OF 29TH ST. NORTH, WEST OF 127TH ST. EAST)** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to improve **Water Distribution System Number 448-90556 (south of 29th St. North, west of 127th St. East)**.

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be **Fifty-One Thousand Dollars (\$51,000)** exclusive of the cost of interest on borrowed money, with **100** percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after **April 1, 2012**, exclusive of the costs of temporary financing.

SECTION 3. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

**WOODS NORTH 3RD ADDITION**

Lots 9 through 24, Block C

Lots 22 through 33, Block D

SECTION 4. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a **fractional** basis.

The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lots 9 through 24, Block C, and Lots 22 through 33, Block D, WOODS NORTH 3RD ADDITION shall each pay 1/28 of the total cost of the improvement.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 5. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 6. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 7. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 8. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 9. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 8<sup>th</sup> day of May, 2012.

---

CARL BREWER, MAYOR

ATTEST:

---

KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

---

GARY E. REBENSTORF,  
DIRECTOR OF LAW

First Published in the Wichita Eagle on May 11, 2012

**RESOLUTION NO. 12-110**

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTING PAVEMENT ON **WOODRIDGE FROM THE NORTH LINE OF LOT 9, BLOCK C, NORTH, WEST AND NORTH TO THE NORTH LINE OF THE PLAT; AND ON WOODRIDGE CT. (LOTS 1 THROUGH 19, BLOCK D) FROM THE WEST LINE OF WOODRIDGE, WEST TO AND INCLUDING THE CUL-DE-SAC AND THAT SIDEWALK BE CONSTRUCTED ON WOODRIDGE (SOUTH OF 29TH ST. NORTH, WEST OF 127TH ST. EAST), 472-85049** IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF AUTHORIZING CONSTRUCTING PAVEMENT ON **WOODRIDGE FROM THE NORTH LINE OF LOT 9, BLOCK C, NORTH, WEST AND NORTH TO THE NORTH LINE OF THE PLAT; AND ON WOODRIDGE CT. (LOTS 1 THROUGH 19, BLOCK D) FROM THE WEST LINE OF WOODRIDGE, WEST TO AND INCLUDING THE CUL-DE-SAC AND THAT SIDEWALK BE CONSTRUCTED ON WOODRIDGE (SOUTH OF 29TH ST. NORTH, WEST OF 127TH ST. EAST), 472-85049** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to pave **Woodridge from the north line of Lot 9, Block C, north, west and north to the north line of the plat; and on Woodridge Ct. (Lots 1 through 19, Block D) from the west line of Woodridge, west to and including the cul-de-sac and that sidewalk be constructed on Woodridge (south of 29th St. North, west of 127th St. East), 472-85049.**

Said pavement shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be **Two Hundred Seventy-One Thousand Dollars (\$271,000.00)** exclusive of the cost of interest on borrowed money, with 100 Percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after **April 1, 2012**, exclusive of the costs of temporary financing.

SECTION 3. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

**WOODS NORTH 3RD ADDITION**

Lots 1 through 8, Block C

Lots 1 through 21, Block D

SECTION 4. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a fractional basis.

The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lots 1 through 8, Block C, and Lots 1 through 21, Block D, **WOODS NORTH 3RD ADDITION**, shall each pay 1/29 of the total cost of the improvements.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis. Except when driveways are requested to serve a particular tract, lot or parcel, the cost of said driveway shall be in addition to the assessment for other improvements.

SECTION 5. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 6. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 7. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 1980 Supp. 12-6a01 et seq.

SECTION 8. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 9. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas this 8th day of  
May, 2012.

---

CARL BREWER, MAYOR

ATTEST:

---

KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

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GARY E. REBENSTORF  
DIRECTOR OF LAW



City of Wichita  
City Council Meeting  
May 8, 2012

**TO:** Mayor and City Council

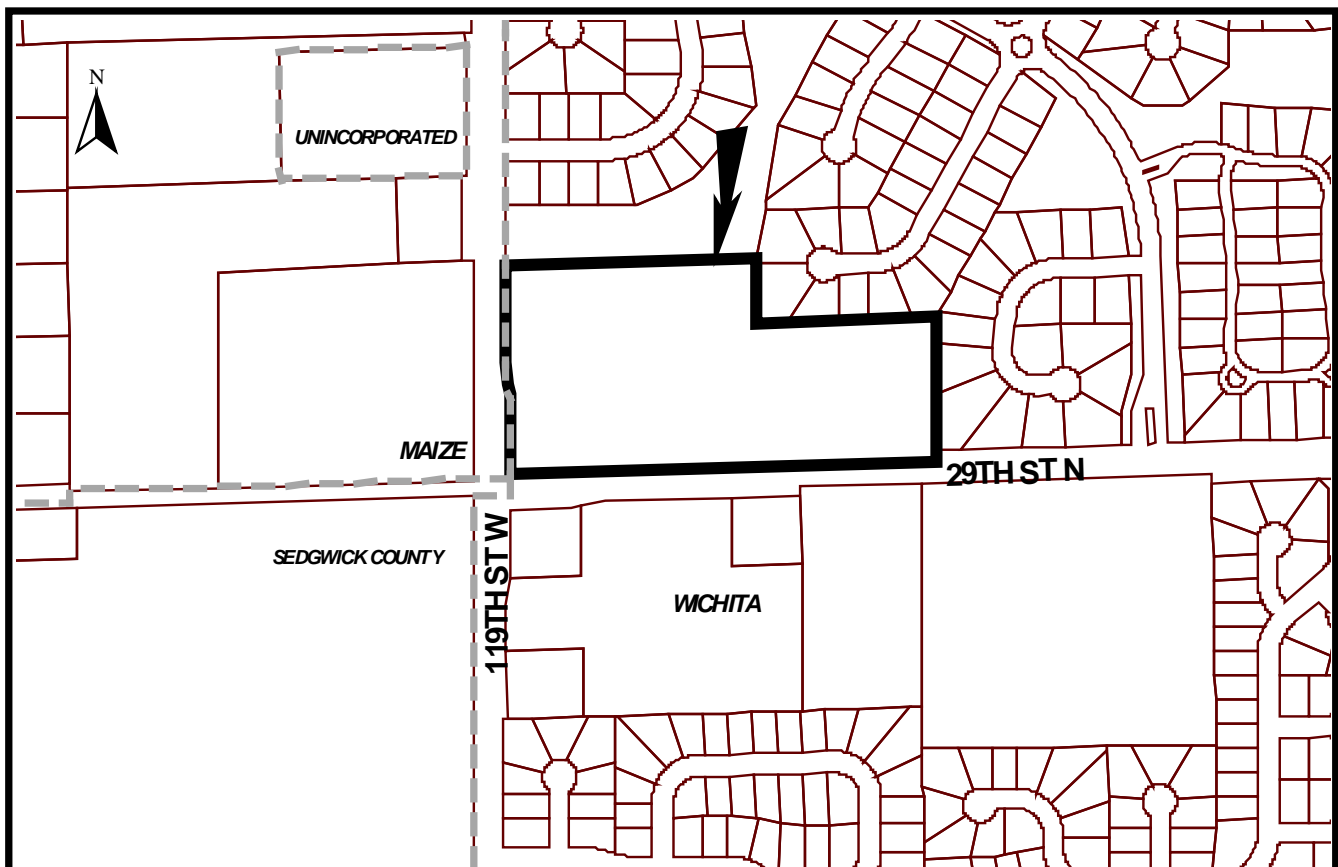
**SUBJECT:** ZON2006-00008 – Extension of time to complete the platting requirement for a zone change from SF-5 Single-Family Residential (“SF-5”) to LC Limited Commercial (“LC”) and GO General Office (“GO”); generally located on the northeast corner of 29th Street North & 119th Street West (associated with CUP2006-07, DP296) (District V)

**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA:** Planning (Consent)

---

**MAPD Staff Recommendation:** Approve a one-year extension of the platting deadline to May 8, 2013.



**Background:** On May 9, 2006, the City Council approved the zone change from SF-5 Single-family Residential (“SF-5”) to LC (Limited Commercial (“LC”) (associated with CUP2006-07, DP296) subject to the condition of platting the property within one year. As the attached letter indicates, the applicant has begun the platting process, but has yet to complete the final plat. The applicant and the landowner north of the subject site are currently working together to resolve some drainage issues. The applicant requests a one year platting extension to May 8, 2013.

**Analysis:** Staff recommends that an extension of time to complete platting requirements be granted. The City Council may deny the request for an extension of time to complete platting; however, denying the extension would declare the zone change null and void, and would require reapplication and rehearing if the property owner still desired a zone change.

**Financial Considerations:** Approval of this request will not create any financial obligations for the City.

**Goal Impact:** The application will promote future Economic Vitality.

**Legal Considerations:** No legal documents are required to enact the granting of the platting extension. The granting of a platting extension is indicated via letter to the applicant noting the extended platting deadline as granted by the City Council.

**Recommendation/Actions:**  
Approve an extension of the platting deadline to May 8, 2013.



RECEIVED

MAR 26 2012

METROPOLITAN PLANNING  
ROUTE ☐ \_\_\_\_\_

March 26, 2012

John Schlegel, Director of Planning  
Planning Department  
10th Floor - City Hall  
455 North Main  
Wichita, Kansas 67202

**RE: Request for a Platting Extension for approved zoning case  
ZON2006-08, located on the NE corner of 29<sup>th</sup> St. N. and  
119<sup>th</sup> St. W., Wichita, Sedgwick County, Kansas.**

Dear Mr. Schlegel:

As agent for the applicant, our office is requesting an extension of at least one year to complete the platting for the above referenced matter. This zone change case was approved at Planning Commission on April 6, 2007. On May 15, 2007, we filed a preliminary plat which was subsequently approved at the Subdivision Committee meeting that was held on June 14, 2007. Our client then requested that we put this project on hold while they resolved some development issues.

We are now working on the coordination between the present landowner and the developer to the north to resolve some drainage issues. We are enclosing our check in the amount of \$110.00 for the required Platting Extension filing fee.

If you have any questions about this request, please contact our office at 262-7271.

Sincerely,  
**Baughman Company, P.A.**

Philip J. Meyer, L.A.  
Vice-President

cc: Geraldine Faber  
file

ENGINEERING  
SURVEYING  
PLANNING  
LANDSCAPE  
ARCHITECTURE

Baughman Company, P.A.  
315 Ellis  
Wichita, Kansas 67211  
P 316-262-7271 F 316-262-0149



RECEIVED

MAR 26 2012

METROPOLITAN PLANNING  
ROUTE ☐ \_\_\_\_\_  
☐ \_\_\_\_\_

March 26, 2012

John Schlegel, Director of Planning  
Planning Department  
10th Floor - City Hall  
455 North Main  
Wichita, Kansas 67202

**RE: Request for a Platting Extension for approved zoning case  
ZON2006-08, located on the NE corner of 29<sup>th</sup> St. N. and  
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Dear Mr. Schlegel:

As agent for the applicant, our office is requesting an extension of at least one year to complete the platting for the above referenced matter. This zone change case was approved at Planning Commission on April 6, 2007. On May 15, 2007, we filed a preliminary plat which was subsequently approved at the Subdivision Committee meeting that was held on June 14, 2007. Our client then requested that we put this project on hold while they resolved some development issues.

We are now working on the coordination between the present landowner and the developer to the north to resolve some drainage issues. We are enclosing our check in the amount of \$110.00 for the required Platting Extension filing fee.

If you have any questions about this request, please contact our office at 262-7271.

Sincerely,  
**Baughman Company, P.A.**

Philip J. Meyer, L.A.  
Vice-President

cc: Geraldine Faber  
file

ENGINEERING  
SURVEYING  
PLANNING  
LANDSCAPE  
ARCHITECTURE

ORDINANCE NO. 49-269

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

BE IT ORDAINED BY THE GOVERNING BODY  
OF THE CITY OF WICHITA, KANSAS.

**SECTION 1.** That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

**Case No. ZON2012-00007**

Amending provision #2 of Protective Overlay #221 of ZON2008-00048 to allow off-site signs on GC General Commercial ("GC") zoned property described as:

Lot 1, Edminster Gardens, Wichita, Sedgwick County, Kansas. Generally located on the northeast corner of K-15 and 31st Street South.

**SUBJECT TO THE FOLLOWING AMENDED PROVISION #2 AND FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #221:**

- (1) Uses permitted on the site are limited to those permitted in the GC General Commercial zoning district except; pawn shops, night club in the city, sexually oriented business, tattooing and body piercing facility and tavern or drinking establishment.
- (2) Signs are to be allowed by sign code except for no portable signs.
- (3) On site pole lighting will be no taller than 15-feet including the base/pedestal. Pole lighting will be directed down onto the site away from adjacent residential development. No pole lighting will be placed within setbacks.
- (4) The site shall be developed in conformance with all applicable regulations.

**SECTION 2.** That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

**SECTION 3.** That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

**ADOPTED AT WICHITA, KANSAS, May 15, 2012.**

---

Carl Brewer - Mayor

**ATTEST:**

---

Karen Sublett, City Clerk

(SEAL)

Approved as to form:

---

Gary E. Rebenstorf, City Attorney

ORDINANCE NO. 49-269

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

BE IT ORDAINED BY THE GOVERNING BODY  
OF THE CITY OF WICHITA, KANSAS.

**SECTION 1.** That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

**Case No. ZON2012-00007**

Amending provision #2 of Protective Overlay #221 of ZON2008-00048 to allow off-site signs on GC General Commercial ("GC") zoned property described as:

Lot 1, Edminster Gardens, Wichita, Sedgwick County, Kansas. Generally located on the northeast corner of K-15 and 31st Street South.

**SUBJECT TO THE FOLLOWING AMENDED PROVISION #2 AND FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #221:**

- (1) Uses permitted on the site are limited to those permitted in the GC General Commercial zoning district except; pawn shops, night club in the city, sexually oriented business, tattooing and body piercing facility and tavern or drinking establishment.
- (2) Signs are to be allowed by sign code except for no portable signs.
- (3) On site pole lighting will be no taller than 15-feet including the base/pedestal. Pole lighting will be directed down onto the site away from adjacent residential development. No pole lighting will be placed within setbacks.
- (4) The site shall be developed in conformance with all applicable regulations.

**SECTION 2.** That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

**SECTION 3.** That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

**ADOPTED AT WICHITA, KANSAS, May 15, 2012.**

---

Carl Brewer - Mayor

**ATTEST:**

---

Karen Sublett, City Clerk

(SEAL)

Approved as to form:

---

Gary E. Rebenstorf, City Attorney



## EXCERPT MINUTES OF THE APRIL 5, 2012 WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION HEARING

**Case No.: ZON2012-07** - L. Wayne Wayman (Owner/Applicant) request to amend provision #2 of PO #221 to allow an offsite billboard on property zoned LC Limited Commercial on property described as:

Lot 1, Edminster Gardens Addition to Wichita, Sedgwick County, Kansas.

**BACKGROUND:** The applicant is seeking approval of an Amendment to Protective Overlay ("PO") #221 on property located on the northeast corner of 31<sup>st</sup> Street South and K-15. Provision No. 2 of PO #221 states that "Signs are to be allowed by sign code except for no off-site or portable signs." The applicant wishes to remove "off-site" from the provision, thus allowing for the possible future placement of an off-site sign on the subject site.

The Sign Code (Section 24.04.185.q) defines a "Sign, Off-site" as a sign delivering a message or advertising other than the name, occupation or nature of the activities conducted on the premises or the products sold or manufactured thereon. The code recognizes two types of off-site billboards: Off-site Junior Billboard (Section 24.04.185.s) is an off-site sign with any sign face equal to or less than three hundred square feet in area, and not exceeding thirty feet in total height above adjoining grade. An Off-site Standard Billboard (Section 24.04.185.t) is an off-site sign with any sign face greater than three hundred square feet in area, but not exceeding fourteen feet in height and forty-eight feet in length, plus any allowed extensions. Off-site billboard signs may be also contain an electronic message center that utilize computer generated messages or some other electronic means of changing copy. The Sign Code also contains development standards, one of which requires a separate review process for the approval of an off-site billboard. Sections 24.04.222 and 24.04.225 of the Sign Code contain the relevant development standards for off-site signs located in the GC district. The regulations are too detailed to be included in this report; however, some of the pertinent requirements and standards are:

1. Section 24.04.222.1 requires new off-site billboards that are closer in distance to residentially-zoned and platted lots on which residential structures may be legally erected or to residential structures than set forth in Section 24.04.222.4.d, must obtain Special Review Approval as outlined in Section 24.04.225.
2. Section 24.04.222.4.d states that except as permitted by Section 24.04.225, Special Review Approval for Off-Site Billboard Sign Permits, no off-site billboard sign shall be erected closer than 300 feet from a platted and residentially-zoned lot on which a primary residential structure can be legally erected or to a residential structure. The distance is to be measured from the nearest lot line of such platted and residentially-zoned lot or residential structure to the closest part of the off-site billboard sign. The 300-foot distance may be reduced to 150 feet when the platted and residentially-zoned lots or residential structure is fully screened from view of the proposed off-site billboard sign by a non-residential building. Section 24.04.222.4.5 states off-site billboards shall comply with all building setbacks.
3. Section 24.04.225 of the Sign Code specifies the special review approval procedure required for approval to locate an off-site billboard in a location that does not comply with the Sign Code's billboard placement standards. Section 24.04.225.1(a) requires a public hearing and approval by the MAPC, or, if forwarded to the City Council, shall also require their approval and (b) the MAPC is granted the authority to hear and make a recommendation regarding off-site billboards.

In short, the previously mentioned sections of the Sign Code state that new billboards that are proposed to be located closer than 300 feet to a residentially-zoned and platted lot on which a residential structure may be built or to a residential structure require a public hearing and Special Review Approval before and from the MAPC. In this instance, depending on the location of the billboard on the subject site, the billboard would be located within 300 feet from single-family residences located north, northeast and southeast of the subject site.

4. Section 24.04.225.3 requires the applicant to submit the following information regarding the proposed signage: a. A detailed graphic presentation of the subject property site, including property parcel dimensions; b. The location of any other buildings or structures on the site; c. The location, size and type of any other ground signs on the site; d. The distance of the proposed sign from any buildings, structures or other signs on the site; and e. A detailed representation of the proposed sign, including sign structure and sign face dimensions, total height of the sign, and any related appurtenances such as catwalks.
5. Section 24.04.225.5 specifies the planning director shall prepare a report that addresses the general requirements of the Wichita Sign Code and the following elements as they may be appropriate for the review: a. The zoning, uses and character of the neighborhood; b. The suitability of the subject property for the proposed off-site sign; c. The conformance of the requested off-site sign to the adopted or recognized comprehensive plan or other plans or policies being utilized by the City; d. Opposition or support of neighborhood residents; and e. A consideration of the recommendations of professional staff. It is the applicant's responsibility to demonstrate the proposal meets applicable review criteria.

The zoning of the surrounding property is predominately LC. Property to the north is zoned LC and SF-5 Single-family Residential ("SF-5") and is currently developed with a warehouse, motorcycle dealership and a single-family residence. Property to the west of the subject site (across K-15) is zoned LI Limited Industrial ("LI"), and is currently being used as a landfill with construction services located on the site. Property to the south of the subject site is zoned LC, and is developed with a mobile home park. Property to the east of the subject site is zoned LC and is developed with a vehicle repair shop.

**CASE HISTORY:** The application area is platted as Lot 1, Edminster Gardens Addition, recorded May 9, 1951. There has been one zone change request (ZON2008-00048) to GC with a PO approved by the City Council on October 28, 2008.

**ADJACENT ZONING AND LAND USE:**

NORTH:	LC & SF-5	Warehouse & Residence
SOUTH:	LC & LI	Landfill and Construction Services & Mobile Home Park
EAST:	LC	Vehicle Repair & Parking
WEST:	LI	Landfill & Construction Services

**PUBLIC SERVICES:** All public services are available to the site. 31<sup>th</sup> Street, along the south side of the subject site, is a paved four-lane minor arterial, (Source: Federal Roadway Functional Classification Map, WAMPO) with approximately 22,000 average daily trips. Southeast Boulevard (K-15) is a paved four-lane freeway and expressway with approximately 30,000 average daily trips. Volutsia Street, along the east side of the subject site, is a paved two-lane local road with no daily trip counts.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies this area as "Local Commercial." "This category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional

market draw. The range of recommended uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. On a limited presence basis, these areas may also include mini-storage warehousing and small scale, light manufacturing.” Comprehensive Plan Land Use-Residential Goal II, Objective B4 states: Evaluate and implement an effective development plan review process to ensure that building placement and height, circulation, signage, screening and lighting or non-residential land uses do not adversely impact residential areas. The Sign Code regulation requiring the special review process described above implement the Comprehensive Plan’s objective. Off-site Billboards are permitted only in the LC, GC, LI, GI and AFB districts.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**, subject to amended provision #2 of Protective Overlay #221:

1. Signs are to be allowed by sign code except for no portable signs.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The zoning of the surrounding property is predominately LC. Property to the north is zoned LC and SF-5 and is currently developed with a warehouse, motorcycle dealership and a single-family residence. Property to the west of the subject site (across K-15) is zoned LI, and is currently being used as a landfill with construction services located on the site. Property to the south of the subject site is zoned LC, and is developed with a mobile home park. Property to the east of the subject site is zoned both LC and is developed with a vehicle repair shop.
2. **The suitability of the subject property for the uses to which it has been restricted:** The property is currently zoned GC, subject to the provisions contained in PO #221, and is currently developed with a warehouse – retail combination. The GC district permits a very wide range of land uses ranging from single-family residential to rather intense retail or commercial uses requiring outside display or storage. As currently zoned the property has economic value and could be developed for uses to which it has been restricted.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Unrestricted Off-site Billboards can introduce intrusive lighting twenty-four hours per day, seven days a week that can be a nuisance to nearby residential uses. The support structures for a billboard can also be viewed as out of character with residential uses. If applicable, the Sign Code required review process offers the potential to minimize detrimental impacts.
4. **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** Approval of the request would provide additional outdoor advertising opportunities to the Wichita market. Denial would presumably be an economic loss to the applicant.
5. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The Land Use Guide of the Comprehensive Plan identifies this area as “Local Commercial.” “This category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of recommended uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. On a limited presence basis, these areas may also include mini-storage warehousing and small scale, light manufacturing.”

Comprehensive Plan Land Use-Residential Goal II, Objective B4 states: Evaluate and implement an effective development plan review process to ensure that building placement and height, circulation, signage, screening and lighting or non-residential land uses do not adversely impact residential areas. The Sign Code regulation requiring the special review process described above implement the Comprehensive Plan's objective. Off-site Billboards are permitted only in the LC, GC, LI, GI and AFB districts.

6. **Impact of the proposed development on community facilities**: All services are in place, and any increased demand on community facilities can be handled by current infrastructure.

**BILL LONGNECKER**, Planning Staff presented the Staff Report. He said DAB III approved the request 6-2.

**FOSTER** asked if this area was located in one of the visual corridors designated in the Comprehensive Plan.

**LONGNECKER** replied not that he could find and added that there are already a couple billboards within ¼ mile of the location.

**MOTION**: To approve subject to staff recommendation.

**JOHNSON** moved, **DENNIS** seconded the motion, and it carried (13-0).

City of Wichita  
City Council Meeting  
May 8, 2012

**TO:** Mayor and City Council

**SUBJECT:** ZON2012-00008 – City zone change request from SF-5 Single-family Residential (“SF-5”) to TF-3 Two-family Residential (“TF-3”) generally located northwest of the intersection of East Central Avenue and North 159th Street East. (District II)

**INITIATED BY:** Metropolitan Area Planning Department

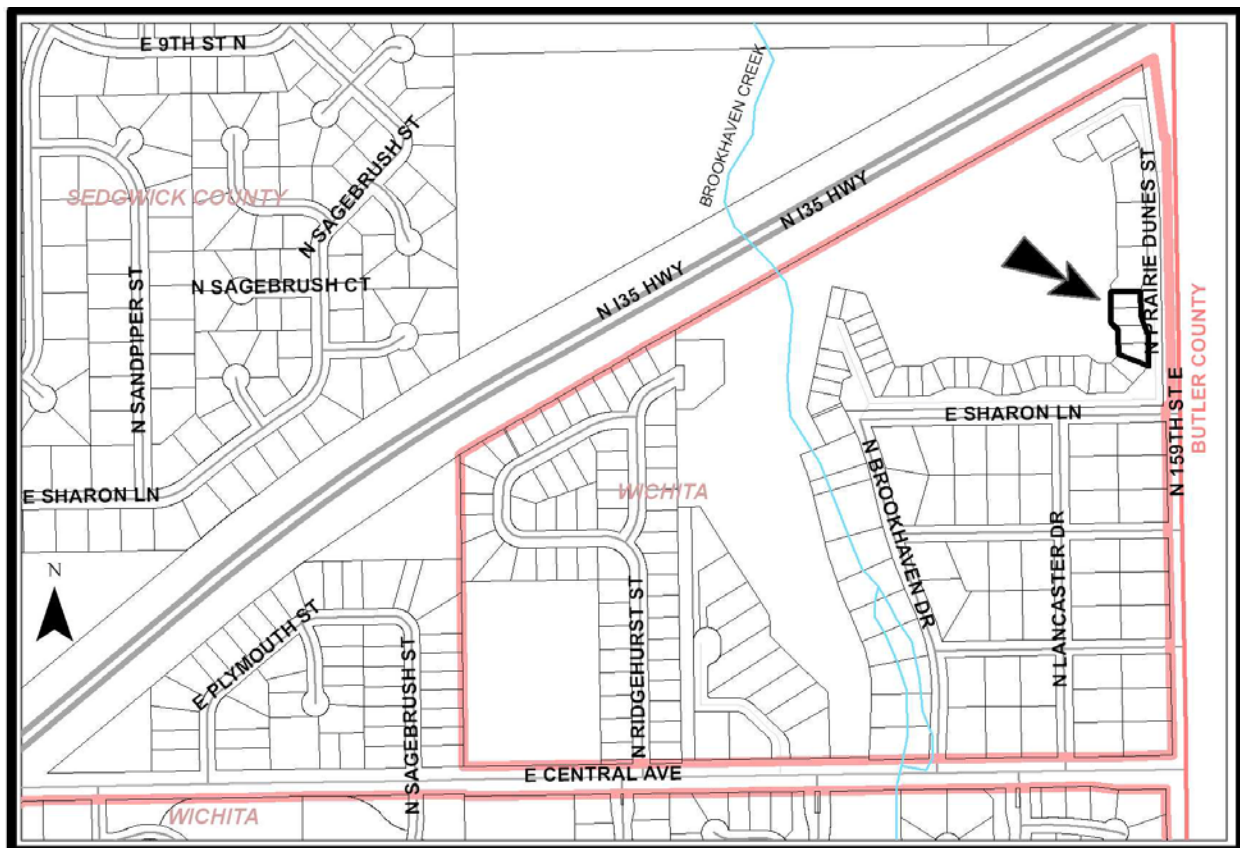
**AGENDA:** Planning (Consent)

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**MAPC Recommendation:** Approve, (13-0)

**DAB IV Recommendation:** Approve, (7-0)

**MAPD Staff Recommendation:** Approve



**Background:** The applicant requests a zone change from SF-5 Single-family Residential (“SF-5”) to TF-3 Two-family Residential (“TF-3”) on 0.63 acres consisting of Lots 1, 2, 3 and 4, Block 2, Terradyne West 3rd Addition to Wichita, Sedgwick County, Kansas. The subject site is located west of 159th Street East and north of Sharon Lane, 1/3 mile north of Central Avenue. The applicant proposes to develop the property with single-family and / or duplexes. The property has been zoned SF-5 since 2006 but has remained vacant. The applicant is of the opinion that rezoning the property would increase the marketability of the lots without harming the owners of the few lots that have already sold.

Property north of the site is zoned MF-18 Multi-family Residential (“MF-18”), and is currently undeveloped. South of the site is property zoned SF-5, and is currently developed with a single-family residence. Property to the west of the site is also zoned SF-5, and is developed with a golf course/country club use. Property to the east of the site, across North 159<sup>th</sup> Street East, is in Butler County, and is developed as a golf course/country club.

**Analysis:** At the Metropolitan Area Planning Commission (MAPC) meeting held April 5, 2012, the MAPC voted (13-0) to recommend approval of the request. The case was approved by consent. There were not any commission members or citizens present to speak for or against the case.

On April 2, 2012, the District Advisory Board (DAB) II heard the rezone request. The DAB voted (7-0) to approve the request. There were not any critical comments from the DAB or the public.

Staff did not receive any protests during the subsequent two-week protest period following the MAPC meeting.

**Financial Considerations:** Approval of this request will not create any financial obligations for the City.

**Goal Impact:** The application will promote Economic Vitality.

**Legal Considerations:** The Law Department has reviewed and approved the ordinance.

**Recommendation/Actions:**

Adopt the findings of the MAPC and approve the zone change request, authorize the Mayor to sign the ordinance and place the ordinance on first reading (simple majority required).

(An override of the Planning Commission’s recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

**Attachments:** Ordinance, MAPC minutes and DAB Memo

(150004) Published in The Wichita Eagle on May 18, 2012

ORDINANCE NO. 49-270

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

BE IT ORDAINED BY THE GOVERNING BODY  
OF THE CITY OF WICHITA, KANSAS.

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. ZON2012-00008

Zone change request from SF-5 Single-family Residential ("SF-5") to TF-3 Two-family Residential ("TF-3"), on property described as:

Lots 1, 2, 3 and 4, Block 2, Terradyne West 3rd Addition to Sedgwick County, Kansas. Generally located northwest of the intersection of East Central Avenue and North 159th Street East.

SECTION 2. That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita-Sedgwick County Unified Zoning Code as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED this 15th day of May, 2012.

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

\_\_\_\_\_  
Carl Brewer, Mayor

(SEAL)

Approved as to form:

\_\_\_\_\_  
Gary E. Rebenstorf, Director of Law



## EXCERPT MINUTES OF THE APRIL 5, 2012 WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION HEARING

**Case No.: ZON2012-08** – Terradyne Residential LLC (Owner/Applicant) and Poe and Associates, Inc. c/o Tim Austin (Agent) request a City zone change from SF-5 Single-Family Residential to TF-3 Two-Family Residential on property described as:

Lots 1, 2, 3 and 4, Block 2, Terradyne West 3rd Addition to Sedgwick County, Kansas.

**BACKGROUND:** The applicant requests a zone change from SF-5 Single-family Residential (“SF-5”) to TF-3 Two-family Residential (“TF-3”) on 0.63 acres consisting of Lots 1, 2, 3 and 4, Block 2, Terradyne West 3rd Addition to Wichita, Sedgwick County, Kansas. The subject site is located west of 159th Street East and north of Sharon Lane, 1/3 mile north of Central Avenue. The applicant proposes to develop the property with single-family and / or duplexes. The property has been zoned SF-5 since 2006 but has remained vacant. The applicant is of the opinion that rezoning the property would increase the marketability of the lots without harming the owners of the few lots that have already sold.

Property north of the site is zoned MF-18 Multi-family Residential (“MF-18”), and is currently undeveloped. South of the site is property zoned SF-5, and is currently developed with a single-family residence. Property to the west of the site is also zoned SF-5, and is developed with a golf course/country club use. Property to the east of the site, across North 159<sup>th</sup> Street East, is in Butler County, and is developed as a golf course/country club.

**CASE HISTORY:** The site is Lots 1, 2, 3 and 4, Block 2, Terradyne West 3rd Addition to Wichita, Sedgwick County, Kansas, which was recorded with the Register of Deeds July 6, 2010. Lot 35, Block 2, through Lot 47, Block 2, and Lot 34, Block 2, except the South 42.79 feet thereof, all in Terradyne West now Lots 5, 6 and 7, Block 2 and Lot 1 Block 3 of the Terradyne West 3<sup>rd</sup> Addition was rezoned from SF-5 to MF-18 February 2010 (ZON2009-00039). The site is located outside of the floodplain and was annexed into the City of Wichita in October of 2006.

### **ADJACENT ZONING AND LAND USE:**

NORTH:	MF-18	Vacant Residential
SOUTH:	SF-5	Single-family Residences
EAST:	Butler County	Country Club/Residences
WEST:	SF-5	Golf Course

**PUBLIC SERVICES:** 159<sup>th</sup> Street East is classified as a two-lane, paved minor arterial road with no traffic counts. The street that accesses the subject area from 159<sup>th</sup> Street East is North Prairie Dunes Street, which is a two-lane, paved residential road with no traffic counts. Municipal water and sewer does serve the subject area.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as within the 2030 Wichita urban growth area and as appropriate for “urban development mix.” This category encompasses areas of land that will likely be developed or redeveloped within the next 30 years with uses predominately found in the Urban Residential Use category. Since the Land Use Guide was amended in 2005, this subject area has been annexed into the city.

The Comprehensive Plan objective for residential use for Wichita (**Objective III.B**) is to “encourage residential redevelopment, infill and higher density residential development, that maximizes the public

investment in existing and planned facilities and services,” as well as **Strategy II.A.1** which recommends that “use Community Unit Plans, Planned Development Districts and zoning as tools to promote mixed use development, higher density residential environments and appropriate buffering.” **Strategy II.B.4** seeks to reduce Evaluate and implement an effective development plan review process to ensure that building placement and height, circulation, signage, screening and lighting for non-residential land uses do not adversely impact residential areas.

**Residential Locational Guideline #3** of the *Comprehensive Plan* recommends that medium-density residential uses may serve as a transitional land use between low and high density residential uses, and may also serve to buffer low-density residential uses from commercial uses. The proposed development complies with this guideline. **Residential Locational Guidelines #5** recommends that medium and high-density residential uses should be directly accessible to arterial or collector streets, in order to avoid high traffic volumes in lower density residential neighborhoods; and **#6** medium and high-density residential uses should be sited where they will not overload or create congestion in existing and planned facilities/utilities.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request for the TF-3 Two-family Residential (“TF-3”) zoning be **APPROVED**.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** Property north of the site is zoned MF-18 Multi-family Residential (“MF-18”), and is currently undeveloped. South of the site is property zoned SF-5, and is currently developed with a single-family residence. Property to the west of the site is also zoned SF-5, and is developed with a golf course/country club use. Property to the east of the site, across North 159<sup>th</sup> St. East, is in Butler County, and is developed as a golf course/country club.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site is currently zoned SF-5. The SF-5 zone district primarily restricts the site to residential uses. Because the site is near an interstate highway, it may not be desirable for single-family development.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Approval of the request could double the density at which the subject area could be developed, depending on duplex or other multi-family development. The effect on nearby residents would be increased traffic on North Prairie Dunes Street. However, single-family residences generate more traffic per unit than multi-family residences. The minimum standards of the Unified Zoning Code should mitigate any other potential negative effects on the surrounding residential neighbors.
4. **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** Denial presumably could cause the applicant a relative economic loss. Approval could introduce multi-family residential uses as infill development in a country club setting where such uses are increasing in popularity, especially high end condo development.
5. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as within

the 2030 Wichita urban growth area and as appropriate for “urban development mix.” This category encompasses areas of land that will likely be developed or redeveloped within the next 30 years with uses predominately found in the Urban Residential Use category.

6. **Length of time the property has remained vacant as currently zoned:** The property was platted for single-family residences in 2006 and replatted in 2010, and is currently undeveloped today.
7. **Impact of the proposed development on community facilities:** Approval of the request should not have a negative impact on community facilities; especially since all sewer and water lines are in place and roads have already been constructed.

**DERRICK SLOCUM**, Planning Staff presented the Staff Report.

**MOTION:** To approve subject to staff recommendation.

**JOHNSON** moved, **D. SHERMAN** seconded the motion, and it carried (13-0).



**INTEROFFICE  
MEMORANDUM**

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**TO:** MAPC Members  
**FROM:** Antione Sherfield, Neighborhood Assistant, District II  
**SUBJECT:** ZON2012-00008:  
**DATE:** April 11, 2012

On Monday, April 2, 2012, the District II Advisory Board considered the request to change Zoning from SF-5 Single-family Residential ("SF-5") to TF-3 Two-family Residential ("TF-3") located Northwest of the intersection of East Central Avenue and North 159<sup>th</sup> Street East.

The applicant requests a zone change from SF-5 Single-family Residential ("SF-5") to TF-3 Two-family Residential ("TF-3") on 0.63 acres consisting of Lots 1, 2, 3 and 4, Block 2, Terradyne West 3rd Addition to Wichita, Sedgwick County, Kansas. The subject site is located west of 159th Street East and north of Sharon Lane, 1/3 mile north of Central Avenue. The applicant proposes to develop the property with single-family and / or duplexes. The property has been zoned SF-5 since 2006 but has remained vacant. The applicant is of the opinion that rezoning the property would increase the marketability of the lots without harming the owners of the few lots that have already sold.

Property north of the site is zoned MF-18 Multi-family Residential ("MF-18"), and is currently undeveloped. South of the site is property zoned SF-5, and is currently developed with a single-family residence. Property to the west of the site is also zoned SF-5, and is developed with a golf course/country club use. Property to the east of the site, across North 159<sup>th</sup> Street East, is in Butler County, and is developed as a golf course/country club.

**CASE HISTORY:** The site is Lots 1, 2, 3 and 4, Block 2, Terradyne West 3rd Addition to Wichita, Sedgwick County, Kansas, which was recorded with the Register of Deeds July 6, 2010. Lot 35, Block 2, through Lot 47, Block 2, and Lot 34, Block 2, except the South 42.79 feet thereof, all in Terradyne West now Lots 5, 6 and 7, Block 2 and Lot 1 Block 3 of the Terradyne West 3<sup>rd</sup> Addition was rezoned from SF-5 to MF-18 February 2010 (ZON2009-00039). The site is located outside of the floodplain and was annexed into the City of Wichita in October of 2006.

**ADJACENT ZONING AND LAND USE:**

NORTH:	MF-18	Vacant Residential
SOUTH:	SF-5	Single-family Residences
EAST:	Butler County	Country Club/Residences
WEST:	SF-5	Golf Course

**Recommended Action:** The DAB voted (7-0) in approval of the request.

Antione Sherfield  
Neighborhood Assistant – District II

City of Wichita  
City Council Meeting  
May 8, 2012

**TO:** Mayor and City Council

**SUBJECT:** ZON2012-00010 – City zone change from LC Limited Commercial (“LC”) to GC General Commercial (“CG”) for a Tattoo/piercing facility; generally located west of South Seneca and north of Walker (1227/29 S. Seneca). (District IV)

**INITIATED BY:** Metropolitan Area Planning Department

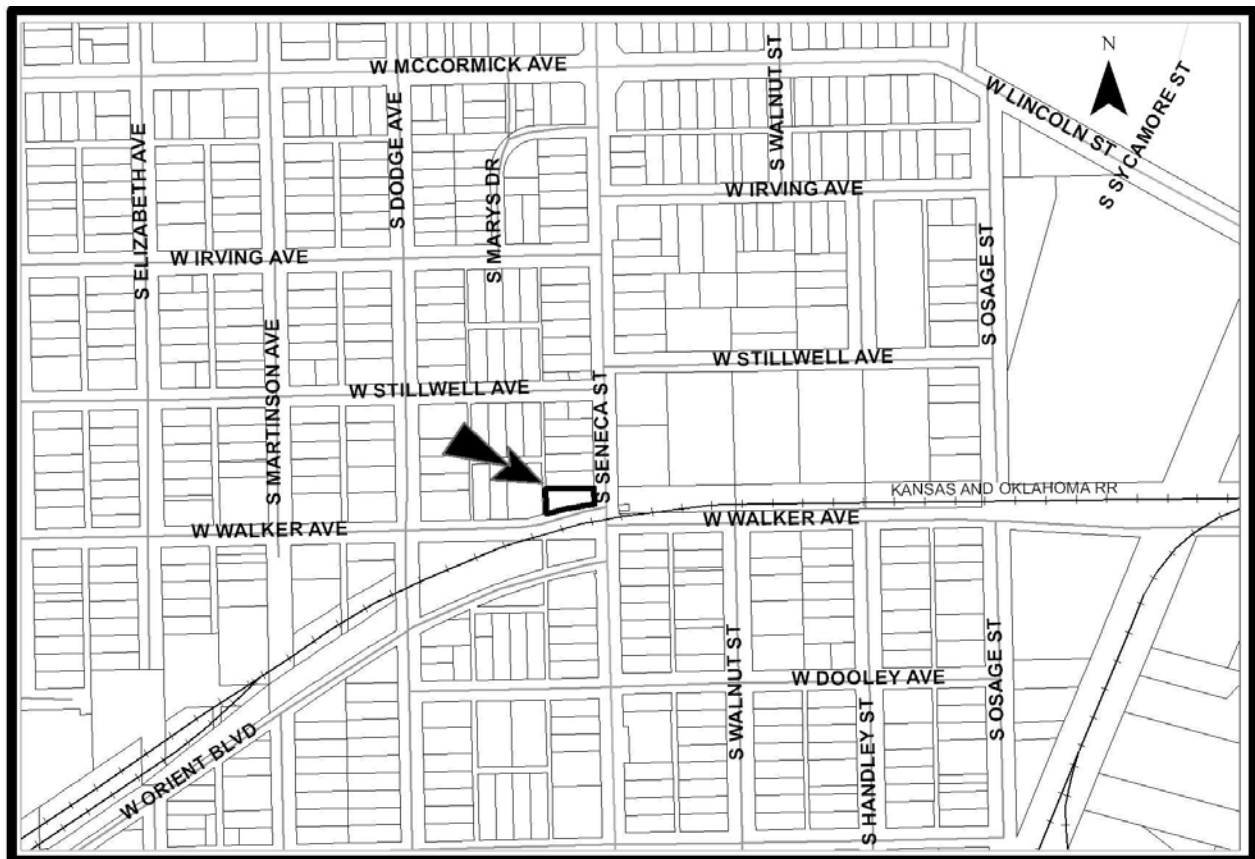
**AGENDA:** Planning (Consent)

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**MAPC Recommendation:** Approve (13-0).

**DAB III Recommendation:** Approve (7-0).

**MAPD Staff Recommendation:** Approve.



**Background:** The applicant requests a zone change from the existing LC Limited Commercial (“LC”) to GC General Commercial (“GC”) zoning on a 0.18-acre platted property. The subject property is located at the northwest corner of Seneca and Walker; the site is developed with a building on the eastern portion of the site, adjacent to Seneca, with parking on the remainder of the site to the west. The property owner wishes to use a portion of the building on this site for a Tattooing and Body Piercing Facility, the remainder of the building is used for a restaurant.

This portion of Seneca is developed primarily with commercial and industrial uses. Property north of the site is zoned LC. The lot abutting the application area to the north is developed with a single-family residence; further north is a warehouse use. South of the site, across Walker, is an active rail line. South of the rail line is GI General Industrial (“GI”) zoned property developed with a wrecking and salvage use. East of the site, across Seneca and north of Walker, is LI Limited Industrial (“LI”) zoned property developed with a railroad company facility and a County maintenance facility. East of Seneca and south of Walker is an LC zoned bar/tavern. West of the application area, across a platted but undeveloped alley, is MF-29 Multi-Family Residential (“MF-29”) zoned property developed with single-family residences. The lot west of the application area fronts Walker Avenue, it is 100 feet wide, and is developed with a single-family residence on the western 50-feet of the lot. The separation between this single-family residence and the applicant’s building is approximately 175 feet.

**Analysis:** At the MAPC meeting held April 5, 2012, the MAPC voted (13-0) to approve the request for GC zoning. No citizens spoke at the MAPC hearing regarding this request. District Advisory Board (DAB) IV heard this request on April 2, 2012. The DAB voted (7-0) to approve the request, no citizens spoke in opposition to the request. No protests were received during the two-week protest period following the MAPC hearing.

**Financial Considerations:** There are no financial considerations in regards to the zoning request.

**Goal Impact:** The application will promote Economic Vitality.

**Legal Considerations:** The ordinance has been reviewed and approved as to form by the Law Department.

**Recommendation/Actions:**

Adopt the findings of the MAPC and approve the zone change, authorize the Mayor to sign the ordinance and place the ordinance on first reading (simple majority required).

(An override of the Planning Commission’s recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

**Attachments:**

- Ordinance
- DAB Memo
- MAPC Minutes

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

BE IT ORDAINED BY THE GOVERNING BODY  
OF THE CITY OF WICHITA, KANSAS.

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. ZON2012-00010

Zone change request from LC Limited Commercial ("LC") to GC General Commercial ("GC") on properties described as:

Lots 11, 12, and 13, except street, Block 15, Replat of John McCormick's Addition, Wichita, Sedgwick County, Kansas; generally located west of South Seneca and north of Walker (1227/29 S. Seneca).

SECTION 2. That upon the taking effect of this Ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita-Sedgwick County Unified Zoning Code as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED this 15th day of May, 2012.

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

\_\_\_\_\_  
Carl Brewer, Mayor

(SEAL)

Approved as to form:

\_\_\_\_\_  
Gary E. Rebenstorf, Director of Law





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## INTEROFFICE MEMORANDUM

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**TO:** Wichita City Council  
MAPC Members

**FROM:** Kelli Glassman, Neighborhood Assistant, District IV

**SUBJECT:** ZON2012-00010

**DATE:** April 24, 2012

On Wednesday, April 2, 2012, the *District Advisory Board (DAB) for Council District 4* considered this request for zone change request from LC Limited Commercial to General Commercial for a Tattoo and Piercing Facility; located west of South Seneca Street and north of Walker Avenue (1227/29 S. Seneca St.)

Staff was present and answered Board questions regarding the request:

- How many parking spaces are there for this building?
- Will the existing building and restaurant be used for the new use?
- Why does it have to be rezoned "GC"?
- What is the process to get a property dezoned?
- Did the BZA approve it?

**DAB members voted 5-1 to recommend approval of the conditional use request.**

Please review this information when this request is considered.

## EXCERPT MINUTES OF THE APRIL 5, 2012 WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION HEARING

**Case No.: ZON2012-10** - Lowell Kemp (owner) requests a City zone change from LC Limited Commercial to General Commercial for a Tattoo and Piercing Facility on property described as:

Lots 11, 12 and 13, Block 15, Replat of part of John McCormick's Addition to Wichita, Sedgwick County, Kansas, except that portion thereof deeded to the City of Wichita for street purposes.

**BACKGROUND:** The applicant requests a zone change from the existing LC Limited Commercial ("LC") to GC General Commercial ("GC") zoning on a 0.18-acre platted property. The subject property is located at the northwest corner of Seneca and Walker; the site is developed with a building on the eastern portion of the site, adjacent to Seneca, with parking on the remainder of the site to the west. The property owner wishes to use a portion of the building on this site for a Tattooing and Body Piercing Facility, the remainder of the building is used for a restaurant.

This portion of Seneca is developed primarily with commercial and industrial uses. Property north of the site is zoned LC. The lot abutting the application area to the north is developed with a single-family residence; further north is a warehouse use. South of the site, across Walker, is an active rail line. South of the rail line is GI General Industrial ("GI") zoned property developed with a wrecking and salvage use. East of the site, across Seneca and north of Walker, is LI Limited Industrial ("LI") zoned property developed with a railroad company facility and a County maintenance facility. East of Seneca and south of Walker is an LC zoned bar/tavern. West of the application area, across a platted but undeveloped alley, is MF-29 Multi-Family Residential ("MF-29") zoned property developed with single-family residences. The lot west of the application area fronts Walker Avenue, it is 100 feet wide, and is developed with a single-family residence on the western 50-feet of the lot. The separation between this single-family residence and the applicant's building is approximately 175 feet.

**CASE HISTORY:** The property was platted as Lots 11, 12, and 13, Block 15 of the Replat Part of John McCormick's Addition to Wichita in 1910. In February 2012, the Wichita Board of Zoning Appeals approved a variance for this property to have a Tattoo/Piercing Facility within 200 feet of residential zoning.

### **ADJACENT ZONING AND LAND USE:**

NORTH	LC	Single-family residence, warehousing
SOUTH	GI	Rail line, wrecking and salvage
EAST	LI, LC	Maintenance facilities, bar/tavern
WEST	MF-29	Single-family residences

**PUBLIC SERVICES:** The subject property has frontage along Seneca, a four-lane arterial street at this location. Walker is a paved, local, two-lane street. Public water and sewer service are currently available to the subject property.

**CONFORMANCE TO PLANS/POLICIES:** The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies the site as appropriate for "Urban Residential" use, which is not consistent with the current LC zoning. Surrounding property to the south and east of this site is identified as "Employment/Industry Center," "Major Institutional" and "Local Commercial." The Commercial Locational Guideline #3 of the Comprehensive Plan recommends that commercial sites should be located

adjacent to arterials and should have site design features that limit noise, lighting and other activity from adversely impacting surrounding residential areas. The Zoning Code will require screening between the subject property and residential zoning to the west, and regulates light and noise trespass between commercial and residential properties.

**RECOMMENDATION:** The application area is a relatively small lot currently zoned LC. The applicant requests GC zoning to develop a Tattoo/piercing business in half of the existing building on the site. The surrounding area is a commercial/industrial corridor along Seneca. Immediately south and west of this site is a wrecking/salvage yard in GI zoning with an adjacent active rail line. Staff feels that the requested GC zoning is not out of character with the surrounding zoning or land uses. And, staff notes that Code required screening and compatibility standards should ensure compatibility between the subject site and residential zoning to the west. Based upon the information available prior to the public hearings, planning staff recommends that the request be **APPROVED**.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** This portion of Seneca is developed primarily with commercial and industrial uses. Property north of the site is zoned LC. The lot abutting the application area to the north is developed with a single-family residence; further north is a warehouse use. South of the site, across Walker, is an active rail line. South of the rail line is GI zoned property developed with a wrecking and salvage use. East of the site, across Seneca and north of Walker, is LI zoned property developed with a railroad company facility and a County maintenance facility. East of Seneca and south of Walker is an LC zoned bar/tavern. West of the application area, across a platted but undeveloped alley, is MF-29 zoned property developed with single-family residences.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site could be developed with commercial uses permitted in the LC zoning district. However, the applicant states that the existing building on the site has remained un-leased due to its small size which does not accommodate most LC uses.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Approval of the request would allow uses permitted in the GC zoning district, including uses defined as more intense than those permitted in the current LC zoning. However, uses permitted under the requested GC zoning are no more intense than land uses permitted on surrounding properties. Therefore this property will not introduce land uses not already permitted in the immediate area.
4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies the site as appropriate for "Urban Residential" use. Surrounding property to the south and east of this site is identified as "Employment/Industry Center," "Major Institutional" and "Local Commercial."
5. **Impact of the proposed development on community facilities:** Traffic generated by GC uses will not exceed the traffic generated by the current permitted LC uses. Therefore, staff does not anticipate any impact on community facilities.

JESS MCNEELY, Planning Staff presented the Staff Report.

**MOTION:** To approve subject to staff recommendation.

**JOHNSON** moved, **D. SHERMAN** seconded the motion, and it carried (13-0).

**City of Wichita  
City Council Meeting  
May 8, 2012**

**TO:** Wichita Airport Authority

**SUBJECT:** Rental Car Concessionaires – Supplemental Agreements

**INITIATED BY:** Department of Airports

**AGENDA:** Wichita Airport Authority (Consent)

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**Recommendation:** Approve the Supplemental Agreements.

**Background:** The Wichita Airport Authority (WAA) has lease agreements with the seven rental car concessionaires serving Wichita Mid-Continent Airport which include EAN Holdings, LLC dba Enterprise Rent-A-Car, DTG Operations, Inc. dba Dollar Rent A Car, DTG Operations, Inc. dba Thrifty Car Rental, Midwest Car Corporation, Avis Rent A Car Systems, Inc., The Wichita Landsmen, LLC dba Budget Rent A Car of Kansas, Inc., and The Hertz Corporation. The lease agreements are on a month-to-month basis until the new parking garage and rental car facilities are completed.

**Analysis:** It is appropriate to enter into supplemental agreements to implement several corporate name changes and to require the rental car companies to collect a Customer Facility Charge (CFC) should the WAA implement a CFC rental car program for the purpose of paying the cost and expenses of financing, planning, designing, constructing, equipping, operating, and maintaining the rental car facilities, or for any other rental car program-related purpose. All of the rental car agencies support the implementation of a CFC and have executed individual supplemental agreements. In a concurrent agenda item, the WAA will take action on a request seeking approval of implementation of a CFC.

**Financial Considerations:** The supplements will obligate the rental car companies to collect CFC fees and remit collected fees to the WAA should the WAA implement a CFC rental car program. Assuming the implementation of a CFC program is approved on the Non-Consent Airport Agenda, annual revenues of approximately \$2 million are expected based on current activity levels.

**Goal Impact:** The Airport's contribution to the Economic Vitality of Wichita is promoted through cooperative agreements with the rental car companies that permit the improvement and development of rental car facilities to meet the demand of customers using the Airport.

**Legal Considerations:** The Law Department has approved the Supplemental Agreements as to form.

**Recommendations/Actions:** It is recommended that the Wichita Airport Authority approve the Supplemental Agreements and authorize the necessary signatures.

**Attachments:** Avis Rent A Car Systems, Inc. - Supplemental Agreement No. 2  
DTG Operations, Inc. dba Dollar Rent A Car - Supplemental Agreement No. 2  
DTG Operations, Inc. dba Thrifty Car Rental - Supplemental Agreement No. 3  
EAN Holdings, LLC dba Enterprise Rent-A-Car - Supplemental Agreement No. 4  
The Hertz Corporation - Supplemental Agreement No. 3  
Midwest Car Corporation - Supplemental Agreement No. 4  
The Wichita Landsmen, LLC dba Budget Rent A Car of Kansas, Inc. – Supplemental Agreement No. 3

SUPPLEMENTAL AGREEMENT NO. 2

By and Between

WICHITA AIRPORT AUTHORITY  
Wichita, Kansas

and

AVIS RENT A CAR SYSTEMS, INC.

for

Rent-A-Car Services  
Wichita Mid-Continent Airport  
Wichita, Kansas

THIS SUPPLEMENTAL AGREEMENT NO. 2, dated May 8, 2012, between THE WICHITA AIRPORT AUTHORITY, Wichita, Kansas (LESSOR) and AVIS RENT A CAR SYSTEMS, INC., a corporation organized and existing under and by virtue of the laws of the State of Delaware, (LESSEE).

WHEREAS, LESSOR is a governmental or quasi-governmental entity authorized under the laws of the State of Kansas to own and operate one or more airports, with full, lawful power and authority to enter into binding legal instruments by and through its governing body; and

WHEREAS, LESSOR operates, maintains and develops the Airport with federal grants and user fees, under the authority of K.S.A. 3-1113 et seq. and 3-167 et seq. and certain federal laws; and owns, operates, regulates, administers, and maintains the campus of Wichita Mid-Continent Airport (Airport); and

WHEREAS, the parties hereto have heretofore entered into an Agreement (Primary Agreement), dated November 19, 1984; and Supplemental Agreement No. 1, dated March 21, 2006; and

WHEREAS, growth at the Airport, including increases in air passengers and car rental customers, has placed a strain on the Airport's public parking facilities, rental car facilities and roadways; and

WHEREAS, the LESSOR has conferred with the Car Rental Companies operating at the Airport regarding the need for improved facilities and services; and

WHEREAS, the LESSOR has now determined that it is in the best interest of the LESSOR to impose a Customer Facility Charge (CFC) for the purpose of paying the costs and expenses of financing, planning, designing, constructing, equipping, operating and maintaining the Rental Car Facilities or for any other rental car program related purpose deemed appropriate by LESSOR;

NOW, THEREFORE, in consideration of the mutual promises and agreements herein set forth, LESSOR and LESSEE do hereby covenant and agree as follows:

## **1. DEFINITIONS.**

As used in this Supplemental Agreement Number 2, the following definitions apply:

- 1.1 "Airport" shall mean the Wichita Mid-Continent Airport.
- 1.2 "Authority" shall mean the Wichita Airport Authority (LESSOR).
- 1.3 "Car Rental Company" means a rental car company having executed a Rent A Car Services agreement for the operation of a rental car concession at the Airport.
- 1.4 "Charge Effective Date" shall mean the date on which the CFC is effective as provided to LESSEE in written notice from the Director.
- 1.5 "Customer Facility Charge" shall mean the charge imposed by the LESSOR and collected and remitted by a Car Rental Company upon a car rental customer arriving at the Airport and renting a vehicle. The definition of a car rental customer is as agreed to in the Gross Receipts Defined paragraph of the subject Rent-A-Car Services agreement. The CFC shall be collected by the Car Rental Company for the benefit of the Airport, pursuant to Section 2 of this Supplemental Agreement.
- 1.6 "Director" shall mean the Director of Airports for the Wichita Airport Authority.
- 1.7 "On-airport" shall mean a car rental company that is located at, upon or within Mid-Continent Airport.
- 1.8 "Off-airport" shall mean a car rental company that is not located at Mid-Continent Airport but which does business at the Airport.
- 1.9 "Rental Car Facilities" shall mean any facilities used by Car Rental Companies and their customers together with all associated infrastructure improvements along with the operation and maintenance of such facilities or any other rental car program related purpose.

- 1.10 "Transaction day" shall mean that period of time a car is rented for twenty-four or fewer hours plus a grace period not to exceed two hours for the initial or first transaction day, and any portion of one or more additional twenty-four hour period(s) for each transaction day thereafter. If LESSEE imposes a rental charge to the customer during the grace period, then such grace period shall be treated as an additional Transaction Day.

## **2. IMPLEMENTATION OF CFC**

The Primary Agreement shall be modified to add the following language:

During the term of this Agreement, LESSOR may adopt and impose a Customer Facility Charge (CFC) to be charged to LESSEE'S airport customers on a per Transaction Day (as such term is defined above) basis, for the purpose of paying the costs and expenses of financing, planning, designing, constructing, equipping, operating and maintaining the Rental Car Facilities or for any other rental car program related purpose deemed appropriate by LESSOR. The method of calculating the CFC and the amount of such CFC shall be determined by LESSOR in its sole discretion. At the inception of this Supplemental Agreement, there may not yet be a CFC charge per Transaction Day, but LESSOR reserves the right to institute a CFC at any time during the term of this Supplemental Agreement.

When and if adopted, the CFC shall apply to all airport customer rental agreements that begin on or after the CFC Charge Effective Date. The parties agree that the CFC shall not apply in whole or in part to any rental agreements commencing before but ending after the CFC Charge Effective Date. Revisions to the Customer Facility Charge rate shall only apply to rental agreements commencing after the effective date of such revision and shall not apply in whole or in part to any rental agreements commencing prior but ending after the effective date for implementation of the revised Customer Facility Charge. LESSEE shall list the CFC separately on its customer invoice, describing it as a "Facility and Operation Fee," and shall charge the fee in connection with each and every rental car contract entered into in connection with its operations on the Airport in such manner and as directed by LESSOR. LESSOR may, at any time and for any reason, change the amount of the CFC, or discontinue it upon written notice to LESSEE. Upon implementation of the CFC, each LESSEE shall be obligated to include the CFC in all forms of reservations not later than thirty (30) days prior to either the CFC Charge Effective Date or the date on which a revised CFC rate takes effect, provided LESSEE is notified by LESSOR of the CFC, or change in CFC, at least forty-five (45) days prior to Charge Effective Date.



The CFC collected by LESSEE shall be deemed to be the property of the LESSOR and shall be held in trust by LESSEE for the benefit of LESSOR. LESSEE agrees that the CFC is not income, revenue or any other asset to LESSEE; that LESSEE has no ownership or property interest in such CFCs; and that LESSEE hereby waives any claim to a possessory or ownership interest in the CFCs. LESSOR (or a trustee on its behalf) shall have complete possessory and ownership rights to such CFCs. LESSEE shall segregate, separately account for and disclose all CFCs as trust funds in its financial statements, and shall maintain adequate records that account for all CFCs charged and collected. Failure to segregate the CFCs shall not alter or eliminate their trust fund nature. LESSEE shall remit all CFCs that were collected or should have been collected from its airport customers on a monthly basis to the LESSOR, together with a monthly statement of transactions which shall include transaction days. The CFCs shall be remitted to and received by LESSOR no later than the 15<sup>th</sup> of the following month in which the CFCs were or should have been collected, remitted separately from any other fees and charges. Failure to strictly comply with any portion of this Section shall be considered a material breach of this Agreement and the LESSEE'S authorization to do business at the Airport.

LESSEE shall maintain adequate records, in full conformance with generally accepted accounting principles that account for all CFCs charged, collected and remitted. LESSOR shall have the right to audit the CFC records upon reasonable notice to LESSEE.

Collection of the CFC shall be limited to the first fourteen Transaction Days of any car rental customer contract, to limit the remittance by any Car Rental Company on any car rental customer contract to fourteen times the CFC.

LESSEE shall be entitled to no compensation for collection safe keeping and accounting of the CFC.

For the purposes of computing Gross Receipts, as herein defined, it is understood that the CFC is not included in the definition of Gross Receipts.

### **3. OTHER TERMS**

It is understood and agreed that all other terms and conditions of Primary Agreement between the parties hereto shall remain in full force and effect.


IN WITNESS WHEREOF, the parties hereto have executed this Supplemental Agreement the day and year first above written.

ATTEST:

THE WICHITA AIRPORT AUTHORITY  
WICHITA, KANSAS

By \_\_\_\_\_  
Karen Sublett, City Clerk

By \_\_\_\_\_  
Carl Brewer, President  
"LESSOR"

By  \_\_\_\_\_  
Victor D. White, Director of Airports

ATTEST:

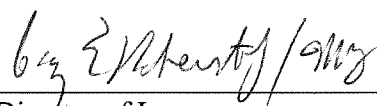
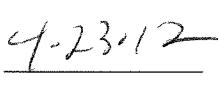
AVIS RENT A CAR SYSTEMS, INC.

By  \_\_\_\_\_

By  \_\_\_\_\_

"LESS

**Robert Bouta, Senior Vice President**  
For Properties & Facilities for Avis Budget Car Rental LLC,  
an authorized representative of Avis Rent A Car System, LLC

APPROVED AS TO FORM:  \_\_\_\_\_ Date:   
Director of Law

SUPPLEMENTAL AGREEMENT NO. 2

By and Between

WICHITA AIRPORT AUTHORITY  
Wichita, Kansas

and

DTG OPERATIONS, INC.  
d/b/a DOLLAR RENT A CAR

for

Rent-A-Car Services  
Wichita Mid-Continent Airport  
Wichita, Kansas

THIS SUPPLEMENTAL AGREEMENT NO. 2, dated May 8, 2012, between THE WICHITA AIRPORT AUTHORITY, Wichita, Kansas (LESSOR) and DTG OPERATIONS, INC. d/b/a DOLLAR RENT A CAR, a corporation organized and existing under and by virtue of the laws of the State of Oklahoma, (LESSEE).

WHEREAS, LESSOR is a governmental or quasi-governmental entity authorized under the laws of the State of Kansas to own and operate one or more airports, with full, lawful power and authority to enter into binding legal instruments by and through its governing body; and

WHEREAS, LESSOR operates, maintains and develops the Airport with federal grants and user fees, under the authority of K.S.A. 3-1113 et seq. and 3-167 et seq. and certain federal laws; and owns, operates, regulates, administers, and maintains the campus of Wichita Mid-Continent Airport (Airport); and

WHEREAS, the parties hereto have heretofore entered into an Agreement (Primary Agreement), dated December 15, 1986; and Supplemental Agreement No. 1, dated March 21, 2006; and

WHEREAS, growth at the Airport, including increases in air passengers and car rental customers, has placed a strain on the Airport's public parking facilities, rental car facilities and roadways; and

WHEREAS, the LESSOR has conferred with the Car Rental Companies operating at the Airport regarding the need for improved facilities and services; and

WHEREAS, the LESSOR has now determined that it is in the best interest of the LESSOR to impose a Customer Facility Charge (CFC) for the purpose of paying the costs and expenses of financing, planning, designing, constructing, equipping, operating and maintaining the Rental Car Facilities or for any other rental car program related purpose deemed appropriate by LESSOR;

NOW, THEREFORE, in consideration of the mutual promises and agreements herein set forth, LESSOR and LESSEE do hereby covenant and agree as follows:

## **1. DEFINITIONS.**

As used in this Supplemental Agreement Number 2, the following definitions apply:

- 1.1 "Airport" shall mean the Wichita Mid-Continent Airport.
- 1.2 "Authority" shall mean the Wichita Airport Authority (LESSOR).
- 1.3 "Car Rental Company" means a rental car company having executed a Rent A Car Services agreement for the operation of a rental car concession at the Airport.
- 1.4 "Charge Effective Date" shall mean the date on which the CFC is effective as provided to LESSEE in written notice from the Director.
- 1.5 "Customer Facility Charge" shall mean the charge imposed by the LESSOR and collected and remitted by a Car Rental Company upon a car rental customer arriving at the Airport and renting a vehicle. The definition of a car rental customer is as agreed to in the Gross Receipts Defined paragraph of the subject Rent-A-Car Services agreement. The CFC shall be collected by the Car Rental Company for the benefit of the Airport, pursuant to Section 2 of this Supplemental Agreement.
- 1.6 "Director" shall mean the Director of Airports for the Wichita Airport Authority.
- 1.7 "On-airport" shall mean a car rental company that is located at, upon or within Mid-Continent Airport.
- 1.8 "Off-airport" shall mean a car rental company that is not located at Mid-Continent Airport but which does business at the Airport.
- 1.9 "Rental Car Facilities" shall mean any facilities used by Car Rental Companies and their customers together with all associated infrastructure improvements along with the operation and maintenance of such facilities or any other rental car program related purpose.

- 1.10 "Transaction day" shall mean that period of time a car is rented for twenty-four or fewer hours plus a grace period not to exceed two hours for the initial or first transaction day, and any portion of one or more additional twenty-four hour period(s) for each transaction day thereafter. If LESSEE imposes a rental charge to the customer during the grace period, then such grace period shall be treated as an additional Transaction Day.

## **2. IMPLEMENTATION OF CFC**

The Primary Agreement shall be modified to add the following language:

During the term of this Agreement, LESSOR may adopt and impose a Customer Facility Charge (CFC) to be charged to LESSEE'S airport customers on a per Transaction Day (as such term is defined above) basis, for the purpose of paying the costs and expenses of financing, planning, designing, constructing, equipping, operating and maintaining the Rental Car Facilities or for any other rental car program related purpose deemed appropriate by LESSOR. The method of calculating the CFC and the amount of such CFC shall be determined by LESSOR in its sole discretion. At the inception of this Supplemental Agreement, there may not yet be a CFC charge per Transaction Day, but LESSOR reserves the right to institute a CFC at any time during the term of this Supplemental Agreement.

When and if adopted, the CFC shall apply to all airport customer rental agreements that begin on or after the CFC Charge Effective Date. The parties agree that the CFC shall not apply in whole or in part to any rental agreements commencing before but ending after the CFC Charge Effective Date. Revisions to the Customer Facility Charge rate shall only apply to rental agreements commencing after the effective date of such revision and shall not apply in whole or in part to any rental agreements commencing prior but ending after the effective date for implementation of the revised Customer Facility Charge. LESSEE shall list the CFC separately on its customer invoice, describing it as a "Facility and Operation Fee," and shall charge the fee in connection with each and every rental car contract entered into in connection with its operations on the Airport in such manner and as directed by LESSOR. LESSOR may, at any time and for any reason, change the amount of the CFC, or discontinue it upon written notice to LESSEE. Upon implementation of the CFC, each LESSEE shall be obligated to include the CFC in all forms of reservations not later than thirty (30) days prior to either the CFC Charge Effective Date or the date on which a revised CFC rate takes effect, provided LESSEE is notified by LESSOR of the CFC, or change in CFC, at least forty-five (45) days prior to Charge Effective Date.

The CFC collected by LESSEE shall be deemed to be the property of the LESSOR and shall be held in trust by LESSEE for the benefit of LESSOR. LESSEE agrees that the CFC is not income, revenue or any other asset to LESSEE; that LESSEE has no ownership or property interest in such CFCs; and that LESSEE hereby waives any claim to a possessory or ownership interest in the CFCs. LESSOR (or a trustee on its behalf) shall have complete possessory and ownership rights to such CFCs. LESSEE shall segregate, separately account for and disclose all CFCs as trust funds in its financial statements, and shall maintain adequate records that account for all CFCs charged and collected. Failure to segregate the CFCs shall not alter or eliminate their trust fund nature. LESSEE shall remit all CFCs that were collected or should have been collected from its airport customers on a monthly basis to the LESSOR, together with a monthly statement of transactions which shall include transaction days. The CFCs shall be remitted to and received by LESSOR no later than the 15<sup>th</sup> of the following month in which the CFCs were or should have been collected, remitted separately from any other fees and charges. Failure to strictly comply with any portion of this Section shall be considered a material breach of this Agreement and the LESSEE'S authorization to do business at the Airport.

LESSEE shall maintain adequate records, in full conformance with generally accepted accounting principles that account for all CFCs charged, collected and remitted. LESSOR shall have the right to audit the CFC records upon reasonable notice to LESSEE.

Collection of the CFC shall be limited to the first fourteen Transaction Days of any car rental customer contract, to limit the remittance by any Car Rental Company on any car rental customer contract to fourteen times the CFC.

LESSEE shall be entitled to no compensation for collection safe keeping and accounting of the CFC.

For the purposes of computing Gross Receipts, as herein defined, it is understood that the CFC is not included in the definition of Gross Receipts.

### **3. OTHER TERMS**

It is understood and agreed that all other terms and conditions of Primary Agreement between the parties hereto shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Supplemental Agreement the day and year first above written.

ATTEST:

THE WICHITA AIRPORT AUTHORITY  
WICHITA, KANSAS

By \_\_\_\_\_  
Karen Sublett, City Clerk

By \_\_\_\_\_  
Carl Brewer, President  
"LESSOR"

By \_\_\_\_\_  
Victor D. White, Director of Airports

ATTEST:

DTG OPERATIONS, INC.  
d/b/a DOLLAR RENT A CAR

By \_\_\_\_\_

By \_\_\_\_\_  
"LESSEE"

APPROVED AS TO FORM: \_\_\_\_\_ Date: \_\_\_\_\_  
Director of Law

SUPPLEMENTAL AGREEMENT NO. 3

By and Between

WICHITA AIRPORT AUTHORITY  
Wichita, Kansas

and

DTG OPERATIONS, INC.  
d/b/a Thrifty Car Rental

for

Rent-A-Car Services  
Wichita Mid-Continent Airport  
Wichita, Kansas

THIS SUPPLEMENTAL AGREEMENT NO. 3, dated May 8, 2012, between THE WICHITA AIRPORT AUTHORITY, Wichita, Kansas (LESSOR) and DTG OPERATIONS, INC. d/b/a Thrifty Car Rental, a corporation organized and existing under and by virtue of the laws of the State of Oklahoma, (LESSEE).

WHEREAS, LESSOR is a governmental or quasi-governmental entity authorized under the laws of the State of Kansas to own and operate one or more airports, with full, lawful power and authority to enter into binding legal instruments by and through its governing body; and

WHEREAS, LESSOR operates, maintains and develops the Airport with federal grants and user fees, under the authority of K.S.A. 3-1113 et seq. and 3-167 et seq. and certain federal laws; and owns, operates, regulates, administers, and maintains the campus of Wichita Mid-Continent Airport (Airport); and

WHEREAS, the parties hereto have heretofore entered into an Agreement (Primary Agreement), dated April 15, 2003; Supplemental Agreement No. 1, dated March 21, 2006; and Supplemental Agreement No. 2, dated May 2, 2006; and

WHEREAS, growth at the Airport, including increases in air passengers and car rental customers, has placed a strain on the Airport's public parking facilities, rental car facilities and roadways; and

WHEREAS, the LESSOR has conferred with the Car Rental Companies operating at the Airport regarding the need for improved facilities and services; and



WHEREAS, the LESSOR has now determined that it is in the best interest of the LESSOR to impose a Customer Facility Charge (CFC) for the purpose of paying the costs and expenses of financing, planning, designing, constructing, equipping, operating and maintaining the Rental Car Facilities or for any other rental car program related purpose deemed appropriate by LESSOR;

NOW, THEREFORE, in consideration of the mutual promises and agreements herein set forth, LESSOR and LESSEE do hereby covenant and agree as follows:

## **1. DEFINITIONS.**

As used in this Supplemental Agreement Number 2, the following definitions apply:

- 1.1 "Airport" shall mean the Wichita Mid-Continent Airport.
- 1.2 "Authority" shall mean the Wichita Airport Authority (LESSOR).
- 1.3 "Car Rental Company" means a rental car company having executed a Rent A Car Services agreement for the operation of a rental car concession at the Airport.
- 1.4 "Charge Effective Date" shall mean the date on which the CFC is effective as provided to LESSEE in written notice from the Director.
- 1.5 "Customer Facility Charge" shall mean the charge imposed by the LESSOR and collected and remitted by a Car Rental Company upon a car rental customer arriving at the Airport and renting a vehicle. The definition of a car rental customer is as agreed to in the Gross Receipts Defined paragraph of the subject Rent-A-Car Services agreement. The CFC shall be collected by the Car Rental Company for the benefit of the Airport, pursuant to Section 2 of this Supplemental Agreement.
- 1.6 "Director" shall mean the Director of Airports for the Wichita Airport Authority.
- 1.7 "On-airport" shall mean a car rental company that is located at, upon or within Mid-Continent Airport.
- 1.8 "Off-airport" shall mean a car rental company that is not located at Mid-Continent Airport but which does business at the Airport.
- 1.9 "Rental Car Facilities" shall mean any facilities used by Car Rental Companies and their customers together with all associated infrastructure improvements along with the operation and maintenance of such facilities or any other rental car program related purpose.

1.10 "Transaction day" shall mean that period of time a car is rented for twenty-four or fewer hours plus a grace period not to exceed two hours for the initial or first transaction day, and any portion of one or more additional twenty-four hour period(s) for each transaction day thereafter. If LESSEE imposes a rental charge to the customer during the grace period, then such grace period shall be treated as an additional Transaction Day.

## **2. IMPLEMENTATION OF CFC**

The Primary Agreement shall be modified to add the following language:

During the term of this Agreement, LESSOR may adopt and impose a Customer Facility Charge (CFC) to be charged to LESSEE'S airport customers on a per Transaction Day (as such term is defined above) basis, for the purpose of paying the costs and expenses of financing, planning, designing, constructing, equipping, operating and maintaining the Rental Car Facilities or for any other rental car program related purpose deemed appropriate by LESSOR. The method of calculating the CFC and the amount of such CFC shall be determined by LESSOR in its sole discretion. At the inception of this Supplemental Agreement, there may not yet be a CFC charge per Transaction Day, but LESSOR reserves the right to institute a CFC at any time during the term of this Supplemental Agreement.

When and if adopted, the CFC shall apply to all airport customer rental agreements that begin on or after the CFC Charge Effective Date. The parties agree that the CFC shall not apply in whole or in part to any rental agreements commencing before but ending after the CFC Charge Effective Date. Revisions to the Customer Facility Charge rate shall only apply to rental agreements commencing after the effective date of such revision and shall not apply in whole or in part to any rental agreements commencing prior but ending after the effective date for implementation of the revised Customer Facility Charge. LESSEE shall list the CFC separately on its customer invoice, describing it as a "Facility and Operation Fee," and shall charge the fee in connection with each and every rental car contract entered into in connection with its operations on the Airport in such manner and as directed by LESSOR. LESSOR may, at any time and for any reason, change the amount of the CFC, or discontinue it upon written notice to LESSEE. Upon implementation of the CFC, each LESSEE shall be obligated to include the CFC in all forms of reservations not later than thirty (30) days prior to either the CFC Charge Effective Date or the date on which a revised CFC rate takes effect, provided LESSEE is notified by LESSOR of the CFC, or change in CFC, at least forty-five (45) days prior to Charge Effective Date.

The CFC collected by LESSEE shall be deemed to be the property of the LESSOR and shall be held in trust by LESSEE for the benefit of LESSOR. LESSEE agrees that the CFC is not income, revenue or any other asset to LESSEE; that LESSEE has no ownership or property interest in such CFCs; and that LESSEE hereby waives any claim to a possessory or ownership interest in the CFCs. LESSOR (or a trustee on its behalf) shall have complete possessory and ownership rights to such CFCs. LESSEE shall segregate, separately account for and disclose all CFCs as trust funds in its financial statements, and shall maintain adequate records that account for all CFCs charged and collected. Failure to segregate the CFCs shall not alter or eliminate their trust fund nature. LESSEE shall remit all CFCs that were collected or should have been collected from its airport customers on a monthly basis to the LESSOR, together with a monthly statement of transactions which shall include transaction days. The CFCs shall be remitted to and received by LESSOR no later than the 15<sup>th</sup> of the following month in which the CFCs were or should have been collected, remitted separately from any other fees and charges. Failure to strictly comply with any portion of this Section shall be considered a material breach of this Agreement and the LESSEE'S authorization to do business at the Airport.

LESSEE shall maintain adequate records, in full conformance with generally accepted accounting principles that account for all CFCs charged, collected and remitted. LESSOR shall have the right to audit the CFC records upon reasonable notice to LESSEE.

Collection of the CFC shall be limited to the first fourteen Transaction Days of any car rental customer contract, to limit the remittance by any Car Rental Company on any car rental customer contract to fourteen times the CFC.

LESSEE shall be entitled to no compensation for collection safe keeping and accounting of the CFC.

For the purposes of computing Gross Receipts, as herein defined, it is understood that the CFC is not included in the definition of Gross Receipts.

### **3. OTHER TERMS**

It is understood and agreed that all other terms and conditions of Primary Agreement between the parties hereto shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Supplemental Agreement the day and year first above written.

ATTEST:

THE WICHITA AIRPORT AUTHORITY  
WICHITA, KANSAS

By \_\_\_\_\_  
Karen Sublett, City Clerk

By \_\_\_\_\_  
Carl Brewer, President  
"LESSOR"

By \_\_\_\_\_  
Victor D. White, Director of Airports

ATTEST:

DTG OPERATIONS, INC.  
d/b/a Thrifty Car Rental

By \_\_\_\_\_

By \_\_\_\_\_  
"LESSEE"

APPROVED AS TO FORM: \_\_\_\_\_ Date: \_\_\_\_\_  
Director of Law

SUPPLEMENTAL AGREEMENT NO. 4

By and Between

WICHITA AIRPORT AUTHORITY  
Wichita, Kansas

and

EAN HOLDINGS, LLC  
d/b/a Enterprise Rent-A-Car

for

Rent-A-Car Services  
Wichita Mid-Continent Airport  
Wichita, Kansas

THIS SUPPLEMENTAL AGREEMENT NO. 4, dated May 8, 2012, between THE WICHITA AIRPORT AUTHORITY, Wichita, Kansas (LESSOR) and EAN HOLDINGS, LLC d/b/a Enterprise Rent-A-Car, a Limited Liability Company organized and existing under and by virtue of the laws of the State of Delaware, (LESSEE).

WHEREAS, LESSOR is a governmental or quasi-governmental entity authorized under the laws of the State of Kansas to own and operate one or more airports, with full, lawful power and authority to enter into binding legal instruments by and through its governing body; and

WHEREAS, LESSOR operates, maintains and develops the Airport with federal grants and user fees, under the authority of K.S.A. 3-1113 et seq. and 3-167 et seq. and certain federal laws; and owns, operates, regulates, administers, and maintains the campus of Wichita Mid-Continent Airport (Airport); and

WHEREAS, the parties hereto have heretofore entered into an Agreement (Primary Agreement), dated April 15, 2003; Supplemental Agreement No. 1, dated October 21, 2003; Supplemental Agreement No. 2, dated March 21, 2006; and Supplemental Agreement No. 3, dated May 2, 2006; and

WHEREAS, growth at the Airport, including increases in air passengers and car rental customers, has placed a strain on the Airport's public parking facilities, rental car facilities and roadways; and

WHEREAS, the LESSOR has conferred with the Car Rental Companies operating at the Airport regarding the need for improved facilities and services; and

WHEREAS, the LESSOR has now determined that it is in the best interest of the LESSOR to impose a Customer Facility Charge (CFC) for the purpose of paying the costs and expenses of financing, planning, designing, constructing, equipping, operating and maintaining the Rental Car Facilities or for any other rental car program related purpose deemed appropriate by LESSOR;

NOW, THEREFORE, in consideration of the mutual promises and agreements herein set forth, LESSOR and LESSEE do hereby covenant and agree as follows:

## **1. DEFINITIONS.**

As used in this Supplemental Agreement Number 2, the following definitions apply:

- 1.1 "Airport" shall mean the Wichita Mid-Continent Airport.
- 1.2 "Authority" shall mean the Wichita Airport Authority (LESSOR).
- 1.3 "Car Rental Company" means a rental car company having executed a Rent A Car Services agreement for the operation of a rental car concession at the Airport.
- 1.4 "Charge Effective Date" shall mean the date on which the CFC is effective as provided to LESSEE in written notice from the Director.
- 1.5 "Customer Facility Charge" shall mean the charge imposed by the LESSOR and collected and remitted by a Car Rental Company upon a car rental customer arriving at the Airport and renting a vehicle. The definition of a car rental customer is as agreed to in the Gross Receipts Defined paragraph of the subject Rent-A-Car Services agreement. The CFC shall be collected by the Car Rental Company for the benefit of the Airport, pursuant to Section 2 of this Supplemental Agreement.
- 1.6 "Director" shall mean the Director of Airports for the Wichita Airport Authority.
- 1.7 "On-airport" shall mean a car rental company that is located at, upon or within Mid-Continent Airport.
- 1.8 "Off-airport" shall mean a car rental company that is not located at Mid-Continent Airport but which does business at the Airport.
- 1.9 "Rental Car Facilities" shall mean any facilities used by Car Rental Companies and their customers together with all associated infrastructure improvements along with the operation and maintenance of such facilities or any other rental car program related purpose.

- 1.10 "Transaction day" shall mean that period of time a car is rented for twenty-four or fewer hours plus a grace period not to exceed two hours for the initial or first transaction day, and any portion of one or more additional twenty-four hour period(s) for each transaction day thereafter. If LESSEE imposes a rental charge to the customer during the grace period, then such grace period shall be treated as an additional Transaction Day.

## **2. IMPLEMENTATION OF CFC**

The Primary Agreement shall be modified to add the following language:

During the term of this Agreement, LESSOR may adopt and impose a Customer Facility Charge (CFC) to be charged to LESSEE'S airport customers on a per Transaction Day (as such term is defined above) basis, for the purpose of paying the costs and expenses of financing, planning, designing, constructing, equipping, operating and maintaining the Rental Car Facilities or for any other rental car program related purpose deemed appropriate by LESSOR. The method of calculating the CFC and the amount of such CFC shall be determined by LESSOR in its sole discretion. At the inception of this Supplemental Agreement, there may not yet be a CFC charge per Transaction Day, but LESSOR reserves the right to institute a CFC at any time during the term of this Supplemental Agreement.

When and if adopted, the CFC shall apply to all airport customer rental agreements that begin on or after the CFC Charge Effective Date. The parties agree that the CFC shall not apply in whole or in part to any rental agreements commencing before but ending after the CFC Charge Effective Date. Revisions to the Customer Facility Charge rate shall only apply to rental agreements commencing after the effective date of such revision and shall not apply in whole or in part to any rental agreements commencing prior but ending after the effective date for implementation of the revised Customer Facility Charge. LESSEE shall list the CFC separately on its customer invoice, describing it as a "Facility and Operation Fee," and shall charge the fee in connection with each and every rental car contract entered into in connection with its operations on the Airport in such manner and as directed by LESSOR. LESSOR may, at any time and for any reason, change the amount of the CFC, or discontinue it upon written notice to LESSEE. Upon implementation of the CFC, each LESSEE shall be obligated to include the CFC in all forms of reservations not later than thirty (30) days prior to either the CFC Charge Effective Date or the date on which a revised CFC rate takes effect, provided LESSEE is notified by LESSOR of the CFC, or change in CFC, at least forty-five (45) days prior to Charge Effective Date.

The CFC collected by LESSEE shall be deemed to be the property of the LESSOR and shall be held in trust by LESSEE for the benefit of LESSOR. LESSEE agrees that the CFC is not income, revenue or any other asset to LESSEE; that LESSEE has no ownership or property interest in such CFCs; and that LESSEE hereby waives any claim to a possessory or ownership interest in the CFCs. LESSOR (or a trustee on its behalf) shall have complete possessory and ownership rights to such CFCs. LESSEE shall segregate, separately account for and disclose all CFCs as trust funds in its financial statements, and shall maintain adequate records that account for all CFCs charged and collected. Failure to segregate the CFCs shall not alter or eliminate their trust fund nature. LESSEE shall remit all CFCs that were collected or should have been collected from its airport customers on a monthly basis to the LESSOR, together with a monthly statement of transactions which shall include transaction days. The CFCs shall be remitted to and received by LESSOR no later than the 15<sup>th</sup> of the following month in which the CFCs were or should have been collected, remitted separately from any other fees and charges. Failure to strictly comply with any portion of this Section shall be considered a material breach of this Agreement and the LESSEE'S authorization to do business at the Airport.

LESSEE shall maintain adequate records, in full conformance with generally accepted accounting principles that account for all CFCs charged, collected and remitted. LESSOR shall have the right to audit the CFC records upon reasonable notice to LESSEE.

Collection of the CFC shall be limited to the first fourteen Transaction Days of any car rental customer contract, to limit the remittance by any Car Rental Company on any car rental customer contract to fourteen times the CFC.

LESSEE shall be entitled to no compensation for collection safe keeping and accounting of the CFC.

For the purposes of computing Gross Receipts, as herein defined, it is understood that the CFC is not included in the definition of Gross Receipts.

### **3. SUCCESSOR IN INTEREST**

EAN Holdings, LLC, a Texas Limited Liability Company, is the acknowledged successor in interest to the original LESSEE, Enterprise Leasing Company – Southwest, a Texas for profit corporation. The parties recognize EAN Holdings, LLC as the rightful party to be designated as LESSEE in this Agreement as amended. EAN Holdings, LLC acknowledges all rights and accepts all duties of LESSEE created by the original Agreement and Supplements 1 through 4.



**4. OTHER TERMS**

It is understood and agreed that all other terms and conditions of Primary Agreement between the parties hereto shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Supplemental Agreement the day and year first above written.

ATTEST:

THE WICHITA AIRPORT AUTHORITY  
WICHITA, KANSAS

By \_\_\_\_\_  
Karen Sublett, City Clerk

By \_\_\_\_\_  
Carl Brewer, President  
"LESSOR"

By \_\_\_\_\_  
Victor D. White, Director of Airports

ATTEST:

EAN HOLDINGS, LLC  
d/b/a Enterprise Rent-A-Car

By \_\_\_\_\_

By \_\_\_\_\_  
"LESSEE"

APPROVED AS TO FORM: \_\_\_\_\_ Date: \_\_\_\_\_  
Director of Law

SUPPLEMENTAL AGREEMENT NO. 3

By and Between

WICHITA AIRPORT AUTHORITY  
Wichita, Kansas

and

THE HERTZ CORPORATION

for

Rent-A-Car Services  
Wichita Mid-Continent Airport  
Wichita, Kansas

THIS SUPPLEMENTAL AGREEMENT NO. 3, dated May 8, 2012, between THE WICHITA AIRPORT AUTHORITY, Wichita, Kansas (LESSOR) and THE HERTZ CORPORATION, a corporation organized and existing under and by virtue of the laws of the State of Delaware, (LESSEE).

WHEREAS, LESSOR is a governmental or quasi-governmental entity authorized under the laws of the State of Kansas to own and operate one or more airports, with full, lawful power and authority to enter into binding legal instruments by and through its governing body; and

WHEREAS, LESSOR operates, maintains and develops the Airport with federal grants and user fees, under the authority of K.S.A. 3-1113 et seq. and 3-167 et seq. and certain federal laws; and owns, operates, regulates, administers, and maintains the campus of Wichita Mid-Continent Airport (Airport); and

WHEREAS, the parties hereto have heretofore entered into an Agreement (Primary Agreement), dated November 19, 1984; Supplemental Agreement No. 1, dated December 11, 2001; and Supplemental Agreement No. 2, dated March 21, 2006; and

WHEREAS, growth at the Airport, including increases in air passengers and car rental customers, has placed a strain on the Airport's public parking facilities, rental car facilities and roadways; and

WHEREAS, the LESSOR has conferred with the Car Rental Companies operating at the Airport regarding the need for improved facilities and services; and

WHEREAS, the LESSOR has now determined that it is in the best interest of the

LESSOR to impose a Customer Facility Charge (CFC) for the purpose of paying the costs and expenses of financing, planning, designing, constructing, equipping, operating and maintaining the Rental Car Facilities or for any other rental car program related purpose deemed appropriate by LESSOR;

NOW, THEREFORE, in consideration of the mutual promises and agreements herein set forth, LESSOR and LESSEE do hereby covenant and agree as follows:

## **1. DEFINITIONS.**

As used in this Supplemental Agreement Number 2, the following definitions apply:

- 1.1 "Airport" shall mean the Wichita Mid-Continent Airport.
- 1.2 "Authority" shall mean the Wichita Airport Authority (LESSOR).
- 1.3 "Car Rental Company" means a rental car company having executed a Rent A Car Services agreement for the operation of a rental car concession at the Airport.
- 1.4 "Charge Effective Date" shall mean the date on which the CFC is effective as provided to LESSEE in written notice from the Director.
- 1.5 "Customer Facility Charge" shall mean the charge imposed by the LESSOR and collected and remitted by a Car Rental Company upon a car rental customer arriving at the Airport and renting a vehicle. The definition of a car rental customer is as agreed to in the Gross Receipts Defined paragraph of the subject Rent-A-Car Services agreement. The CFC shall be collected by the Car Rental Company for the benefit of the Airport, pursuant to Section 2 of this Supplemental Agreement.
- 1.6 "Director" shall mean the Director of Airports for the Wichita Airport Authority.
- 1.7 "On-airport" shall mean a car rental company that is located at, upon or within Mid-Continent Airport.
- 1.8 "Off-airport" shall mean a car rental company that is not located at Mid-Continent Airport but which does business at the Airport.
- 1.9 "Rental Car Facilities" shall mean any facilities used by Car Rental Companies and their customers together with all associated infrastructure improvements along with the operation and maintenance of such facilities or any other rental car program related purpose.

- 1.10 "Transaction day" shall mean that period of time a car is rented for twenty-four or fewer hours plus a grace period not to exceed two hours for the initial or first transaction day, and any portion of one or more additional twenty-four hour period(s) for each transaction day thereafter. If LESSEE imposes a rental charge to the customer during the grace period, then such grace period shall be treated as an additional Transaction Day.

## **2. IMPLEMENTATION OF CFC**

The Primary Agreement shall be modified to add the following language:

During the term of this Agreement, LESSOR may adopt and impose a Customer Facility Charge (CFC) to be charged to LESSEE'S airport customers on a per Transaction Day (as such term is defined above) basis, for the purpose of paying the costs and expenses of financing, planning, designing, constructing, equipping, operating and maintaining the Rental Car Facilities or for any other rental car program related purpose deemed appropriate by LESSOR. The method of calculating the CFC and the amount of such CFC shall be determined by LESSOR in its sole discretion. At the inception of this Supplemental Agreement, there may not yet be a CFC charge per Transaction Day, but LESSOR reserves the right to institute a CFC at any time during the term of this Supplemental Agreement.

When and if adopted, the CFC shall apply to all airport customer rental agreements that begin on or after the CFC Charge Effective Date. The parties agree that the CFC shall not apply in whole or in part to any rental agreements commencing before but ending after the CFC Charge Effective Date. Revisions to the Customer Facility Charge rate shall only apply to rental agreements commencing after the effective date of such revision and shall not apply in whole or in part to any rental agreements commencing prior but ending after the effective date for implementation of the revised Customer Facility Charge. LESSEE shall list the CFC separately on its customer invoice, describing it as a "Facility and Operation Fee," and shall charge the fee in connection with each and every rental car contract entered into in connection with its operations on the Airport in such manner and as directed by LESSOR. LESSOR may, at any time and for any reason, change the amount of the CFC, or discontinue it upon written notice to LESSEE. Upon implementation of the CFC, each LESSEE shall be obligated to include the CFC in all forms of reservations not later than thirty (30) days prior to either the CFC Charge Effective Date or the date on which a revised CFC rate takes effect, provided LESSEE is notified by LESSOR of the CFC, or change in CFC, at least forty-five (45) days prior to Charge Effective Date.

The CFC collected by LESSEE shall be deemed to be the property of the LESSOR and shall be

held in trust by LESSEE for the benefit of LESSOR. LESSEE agrees that the CFC is not income, revenue or any other asset to LESSEE; that LESSEE has no ownership or property interest in such CFCs; and that LESSEE hereby waives any claim to a possessory or ownership interest in the CFCs. LESSOR (or a trustee on its behalf) shall have complete possessory and ownership rights to such CFCs. LESSEE shall segregate, separately account for and disclose all CFCs as trust funds in its financial statements, and shall maintain adequate records that account for all CFCs charged and collected. Failure to segregate the CFCs shall not alter or eliminate their trust fund nature. LESSEE shall remit all CFCs that were collected or should have been collected from its airport customers on a monthly basis to the LESSOR, together with a monthly statement of transactions which shall include transaction days. The CFCs shall be remitted to and received by LESSOR no later than the 15<sup>th</sup> of the following month in which the CFCs were or should have been collected, remitted separately from any other fees and charges. Failure to strictly comply with any portion of this Section shall be considered a material breach of this Agreement and the LESSEE'S authorization to do business at the Airport.

LESSEE shall maintain adequate records, in full conformance with generally accepted accounting principles that account for all CFCs charged, collected and remitted. LESSOR shall have the right to audit the CFC records upon reasonable notice to LESSEE.

Collection of the CFC shall be limited to the first fourteen Transaction Days of any car rental customer contract, to limit the remittance by any Car Rental Company on any car rental customer contract to fourteen times the CFC.

LESSEE shall be entitled to no compensation for collection safe keeping and accounting of the CFC.

For the purposes of computing Gross Receipts, as herein defined, it is understood that the CFC is not included in the definition of Gross Receipts.

### **3. OTHER TERMS**

It is understood and agreed that all other terms and conditions of Primary Agreement between the parties hereto shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Supplemental Agreement the day and year first above written.

ATTEST:

THE WICHITA AIRPORT AUTHORITY  
WICHITA, KANSAS

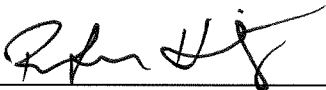
By \_\_\_\_\_  
Karen Sublett, City Clerk

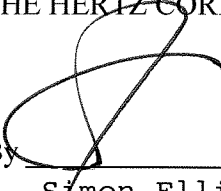
By \_\_\_\_\_  
Carl Brewer, President  
"LESSOR"

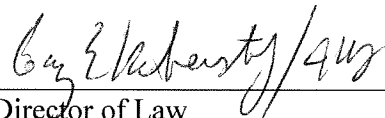
By  \_\_\_\_\_  
Victor D. White, Director of Airports

ATTEST:

THE HERTZ CORPORATION

By  \_\_\_\_\_  
Robert M. Hurwitz  
Assistant Secretary

By  \_\_\_\_\_  
Simon Ellis  
"LESSEE"

APPROVED AS TO FORM:  \_\_\_\_\_ Date: 4-23-12  
Director of Law

SUPPLEMENTAL AGREEMENT NO. 4

By and Between

WICHITA AIRPORT AUTHORITY  
Wichita, Kansas

and

MIDWEST CAR CORPORATION

for

Rent-A-Car Services  
Wichita Mid-Continent Airport  
Wichita, Kansas

THIS SUPPLEMENTAL AGREEMENT NO. 4, dated May 8, 2012, between THE WICHITA AIRPORT AUTHORITY, Wichita, Kansas (LESSOR) and MIDWEST CAR CORPORATION, a corporation organized and existing under and by virtue of the laws of the State of Kansas, (LESSEE).

WHEREAS, LESSOR is a governmental or quasi-governmental entity authorized under the laws of the State of Kansas to own and operate one or more airports, with full, lawful power and authority to enter into binding legal instruments by and through its governing body; and

WHEREAS, LESSOR operates, maintains and develops the Airport with federal grants and user fees, under the authority of K.S.A. 3-1113 et seq. and 3-167 et seq. and certain federal laws; and owns, operates, regulates, administers, and maintains the campus of Wichita Mid-Continent Airport (Airport); and

WHEREAS, the parties hereto have heretofore entered into an Agreement (Primary Agreement), dated November 19, 1984; Supplemental Agreement No. 1, dated December 11, 2001; Supplemental Agreement No. 2, dated December 17, 2002; and Supplemental Agreement No. 3, dated March 21, 2006; and

WHEREAS, growth at the Airport, including increases in air passengers and car rental customers, has placed a strain on the Airport's public parking facilities, rental car facilities and roadways; and

WHEREAS, the LESSOR has conferred with the Car Rental Companies operating at the Airport regarding the need for improved facilities and services; and

WHEREAS, the LESSOR has now determined that it is in the best interest of the LESSOR to impose a Customer Facility Charge (CFC) for the purpose of paying the costs and expenses of financing, planning, designing, constructing, equipping, operating and maintaining the Rental Car Facilities or for any other rental car program related purpose deemed appropriate by LESSOR;

NOW, THEREFORE, in consideration of the mutual promises and agreements herein set forth, LESSOR and LESSEE do hereby covenant and agree as follows:

## **1. DEFINITIONS.**

As used in this Supplemental Agreement Number 2, the following definitions apply:

- 1.1 "Airport" shall mean the Wichita Mid-Continent Airport.
- 1.2 "Authority" shall mean the Wichita Airport Authority (LESSOR).
- 1.3 "Car Rental Company" means a rental car company having executed a Rent A Car Services agreement for the operation of a rental car concession at the Airport.
- 1.4 "Charge Effective Date" shall mean the date on which the CFC is effective as provided to LESSEE in written notice from the Director.
- 1.5 "Customer Facility Charge" shall mean the charge imposed by the LESSOR and collected and remitted by a Car Rental Company upon a car rental customer arriving at the Airport and renting a vehicle. The definition of a car rental customer is as agreed to in the Gross Receipts Defined paragraph of the subject Rent-A-Car Services agreement. The CFC shall be collected by the Car Rental Company for the benefit of the Airport, pursuant to Section 2 of this Supplemental Agreement.
- 1.6 "Director" shall mean the Director of Airports for the Wichita Airport Authority.
- 1.7 "On-airport" shall mean a car rental company that is located at, upon or within Mid-Continent Airport.
- 1.8 "Off-airport" shall mean a car rental company that is not located at Mid-Continent Airport but which does business at the Airport.
- 1.9 "Rental Car Facilities" shall mean any facilities used by Car Rental Companies and their customers together with all associated infrastructure improvements along with the operation and maintenance of such facilities or any other rental car program related purpose.



- 1.10 "Transaction day" shall mean that period of time a car is rented for twenty-four or fewer hours plus a grace period not to exceed two hours for the initial or first transaction day, and any portion of one or more additional twenty-four hour period(s) for each transaction day thereafter. If LESSEE imposes a rental charge to the customer during the grace period, then such grace period shall be treated as an additional Transaction Day.

## **2. IMPLEMENTATION OF CFC**

The Primary Agreement shall be modified to add the following language:

During the term of this Agreement, LESSOR may adopt and impose a Customer Facility Charge (CFC) to be charged to LESSEE'S airport customers on a per Transaction Day (as such term is defined above) basis, for the purpose of paying the costs and expenses of financing, planning, designing, constructing, equipping, operating and maintaining the Rental Car Facilities or for any other rental car program related purpose deemed appropriate by LESSOR. The method of calculating the CFC and the amount of such CFC shall be determined by LESSOR in its sole discretion. At the inception of this Supplemental Agreement, there may not yet be a CFC charge per Transaction Day, but LESSOR reserves the right to institute a CFC at any time during the term of this Supplemental Agreement.

When and if adopted, the CFC shall apply to all airport customer rental agreements that begin on or after the CFC Charge Effective Date. The parties agree that the CFC shall not apply in whole or in part to any rental agreements commencing before but ending after the CFC Charge Effective Date. Revisions to the Customer Facility Charge rate shall only apply to rental agreements commencing after the effective date of such revision and shall not apply in whole or in part to any rental agreements commencing prior but ending after the effective date for implementation of the revised Customer Facility Charge. LESSEE shall list the CFC separately on its customer invoice, describing it as a "Facility and Operation Fee," and shall charge the fee in connection with each and every rental car contract entered into in connection with its operations on the Airport in such manner and as directed by LESSOR. LESSOR may, at any time and for any reason, change the amount of the CFC, or discontinue it upon written notice to LESSEE. Upon implementation of the CFC, each LESSEE shall be obligated to include the CFC in all forms of reservations not later than thirty (30) days prior to either the CFC Charge Effective Date or the date on which a revised CFC rate takes effect, provided LESSEE is notified by LESSOR of the CFC, or change in CFC, at least forty-five (45) days prior to Charge Effective Date.

The CFC collected by LESSEE shall be deemed to be the property of the LESSOR and shall be held in trust by LESSEE for the benefit of LESSOR. LESSEE agrees that the CFC is not income, revenue or any other asset to LESSEE; that LESSEE has no ownership or property interest in such CFCs; and that LESSEE hereby waives any claim to a possessory or ownership interest in the CFCs. LESSOR (or a trustee on its behalf) shall have complete possessory and ownership rights to such CFCs. LESSEE shall segregate, separately account for and disclose all CFCs as trust funds in its financial statements, and shall maintain adequate records that account for all CFCs charged and collected. Failure to segregate the CFCs shall not alter or eliminate their trust fund nature. LESSEE shall remit all CFCs that were collected or should have been collected from its airport customers on a monthly basis to the LESSOR, together with a monthly statement of transactions which shall include transaction days. The CFCs shall be remitted to and received by LESSOR no later than the 15<sup>th</sup> of the following month in which the CFCs were or should have been collected, remitted separately from any other fees and charges. Failure to strictly comply with any portion of this Section shall be considered a material breach of this Agreement and the LESSEE'S authorization to do business at the Airport.

LESSEE shall maintain adequate records, in full conformance with generally accepted accounting principles that account for all CFCs charged, collected and remitted. LESSOR shall have the right to audit the CFC records upon reasonable notice to LESSEE.

Collection of the CFC shall be limited to the first fourteen Transaction Days of any car rental customer contract, to limit the remittance by any Car Rental Company on any car rental customer contract to fourteen times the CFC.

LESSEE shall be entitled to no compensation for collection safe keeping and accounting of the CFC.

For the purposes of computing Gross Receipts, as herein defined, it is understood that the CFC is not included in the definition of Gross Receipts.

### **3. OTHER TERMS**

It is understood and agreed that all other terms and conditions of Primary Agreement between the parties hereto shall remain in full force and effect.


IN WITNESS WHEREOF, the parties hereto have executed this Supplemental Agreement the day and year first above written.

ATTEST:

THE WICHITA AIRPORT AUTHORITY  
WICHITA, KANSAS

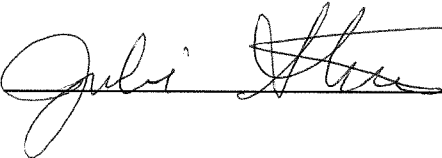
By \_\_\_\_\_  
Karen Sublett, City Clerk


By \_\_\_\_\_  
Carl Brewer, President  
"LESSOR"

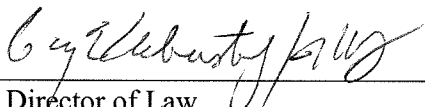
By  \_\_\_\_\_  
Victor D. White, Director of Airports

ATTEST:

MIDWEST CAR CORPORATION

By  \_\_\_\_\_

By  \_\_\_\_\_  
"LESSEE"

APPROVED AS TO FORM:  \_\_\_\_\_ Date: 4-23-12  
Director of Law

SUPPLEMENTAL AGREEMENT NO. 3

By and Between

WICHITA AIRPORT AUTHORITY  
Wichita, Kansas

and

THE WICHITA LANDSMEN, LLC  
d/b/a Budget Rent A Car of Kansas, Inc.

for

Rent-A-Car Services  
Wichita Mid-Continent Airport  
Wichita, Kansas

THIS SUPPLEMENTAL AGREEMENT NO. 3, dated May 8, 2012, between THE WICHITA AIRPORT AUTHORITY, Wichita, Kansas (LESSOR) and THE WICHITA LANDSMEN, LLC d/b/a Budget Rent A Car of Kansas, Inc., a corporation organized and existing under and by virtue of the laws of the State of Kansas, (LESSEE).

WHEREAS, LESSOR is a governmental or quasi-governmental entity authorized under the laws of the State of Kansas to own and operate one or more airports, with full, lawful power and authority to enter into binding legal instruments by and through its governing body; and

WHEREAS, LESSOR operates, maintains and develops the Airport with federal grants and user fees, under the authority of K.S.A. 3-1113 et seq. and 3-167 et seq. and certain federal laws; and owns, operates, regulates, administers, and maintains the campus of Wichita Mid-Continent Airport (Airport); and

WHEREAS, the parties hereto have heretofore entered into an Agreement (Primary Agreement), dated November 19, 1979; Supplemental Agreement No. 1, dated June 16, 1980; and Supplemental Agreement No. 2, dated March 21, 2006; and

WHEREAS, growth at the Airport, including increases in air passengers and car rental customers, has placed a strain on the Airport's public parking facilities, rental car facilities and roadways; and

WHEREAS, the LESSOR has conferred with the Car Rental Companies operating at the Airport regarding the need for improved facilities and services; and

WHEREAS, the LESSOR has now determined that it is in the best interest of the LESSOR to impose a Customer Facility Charge (CFC) for the purpose of paying the costs and expenses of financing, planning, designing, constructing, equipping, operating and maintaining the Rental Car Facilities or for any other rental car program related purpose deemed appropriate by LESSOR;

NOW, THEREFORE, in consideration of the mutual promises and agreements herein set forth, LESSOR and LESSEE do hereby covenant and agree as follows:

## **1. DEFINITIONS.**

As used in this Supplemental Agreement Number 2, the following definitions apply:

- 1.1 "Airport" shall mean the Wichita Mid-Continent Airport.
- 1.2 "Authority" shall mean the Wichita Airport Authority (LESSOR).
- 1.3 "Car Rental Company" means a rental car company having executed a Rent A Car Services agreement for the operation of a rental car concession at the Airport.
- 1.4 "Charge Effective Date" shall mean the date on which the CFC is effective as provided to LESSEE in written notice from the Director.
- 1.5 "Customer Facility Charge" shall mean the charge imposed by the LESSOR and collected and remitted by a Car Rental Company upon a car rental customer arriving at the Airport and renting a vehicle. The definition of a car rental customer is as agreed to in the Gross Receipts Defined paragraph of the subject Rent-A-Car Services agreement. The CFC shall be collected by the Car Rental Company for the benefit of the Airport, pursuant to Section 2 of this Supplemental Agreement.
- 1.6 "Director" shall mean the Director of Airports for the Wichita Airport Authority.
- 1.7 "On-airport" shall mean a car rental company that is located at, upon or within Mid-Continent Airport.
- 1.8 "Off-airport" shall mean a car rental company that is not located at Mid-Continent Airport but which does business at the Airport.
- 1.9 "Rental Car Facilities" shall mean any facilities used by Car Rental Companies and their customers together with all associated infrastructure improvements

along with the operation and maintenance of such facilities or any other rental car program related purpose.

- 1.10 "Transaction day" shall mean that period of time a car is rented for twenty-four or fewer hours plus a grace period not to exceed two hours for the initial or first transaction day, and any portion of one or more additional twenty-four hour period(s) for each transaction day thereafter. If LESSEE imposes a rental charge to the customer during the grace period, then such grace period shall be treated as an additional Transaction Day.

## **2. IMPLEMENTATION OF CFC**

The Primary Agreement shall be modified to add the following language:

During the term of this Agreement, LESSOR may adopt and impose a Customer Facility Charge (CFC) to be charged to LESSEE'S airport customers on a per Transaction Day (as such term is defined above) basis, for the purpose of paying the costs and expenses of financing, planning, designing, constructing, equipping, operating and maintaining the Rental Car Facilities or for any other rental car program related purpose deemed appropriate by LESSOR. The method of calculating the CFC and the amount of such CFC shall be determined by LESSOR in its sole discretion. At the inception of this Supplemental Agreement, there may not yet be a CFC charge per Transaction Day, but LESSOR reserves the right to institute a CFC at any time during the term of this Supplemental Agreement.

When and if adopted, the CFC shall apply to all airport customer rental agreements that begin on or after the CFC Charge Effective Date. The parties agree that the CFC shall not apply in whole or in part to any rental agreements commencing before but ending after the CFC Charge Effective Date. Revisions to the Customer Facility Charge rate shall only apply to rental agreements commencing after the effective date of such revision and shall not apply in whole or in part to any rental agreements commencing prior but ending after the effective date for implementation of the revised Customer Facility Charge. LESSEE shall list the CFC separately on its customer invoice, describing it as a "Facility and Operation Fee," and shall charge the fee in connection with each and every rental car contract entered into in connection with its operations on the Airport in such manner and as directed by LESSOR. LESSOR may, at any time and for any reason, change the amount of the CFC, or discontinue it upon written notice to LESSEE. Upon implementation of the CFC, each LESSEE shall be obligated to include the CFC in all forms of reservations not later than thirty (30) days prior to either the CFC Charge Effective

Date or the date on which a revised CFC rate takes effect, provided LESSEE is notified by LESSOR of the CFC, or change in CFC, at least forty-five (45) days prior to Charge Effective Date.

The CFC collected by LESSEE shall be deemed to be the property of the LESSOR and shall be held in trust by LESSEE for the benefit of LESSOR. LESSEE agrees that the CFC is not income, revenue or any other asset to LESSEE; that LESSEE has no ownership or property interest in such CFCs; and that LESSEE hereby waives any claim to a possessory or ownership interest in the CFCs. LESSOR (or a trustee on its behalf) shall have complete possessory and ownership rights to such CFCs. LESSEE shall segregate, separately account for and disclose all CFCs as trust funds in its financial statements, and shall maintain adequate records that account for all CFCs charged and collected. Failure to segregate the CFCs shall not alter or eliminate their trust fund nature. LESSEE shall remit all CFCs that were collected or should have been collected from its airport customers on a monthly basis to the LESSOR, together with a monthly statement of transactions which shall include transaction days. The CFCs shall be remitted to and received by LESSOR no later than the 15<sup>th</sup> of the following month in which the CFCs were or should have been collected, remitted separately from any other fees and charges. Failure to strictly comply with any portion of this Section shall be considered a material breach of this Agreement and the LESSEE'S authorization to do business at the Airport.

LESSEE shall maintain adequate records, in full conformance with generally accepted accounting principles that account for all CFCs charged, collected and remitted. LESSOR shall have the right to audit the CFC records upon reasonable notice to LESSEE.

Collection of the CFC shall be limited to the first fourteen Transaction Days of any car rental customer contract, to limit the remittance by any Car Rental Company on any car rental customer contract to fourteen times the CFC.

LESSEE shall be entitled to no compensation for collection safe keeping and accounting of the CFC.

For the purposes of computing Gross Receipts, as herein defined, it is understood that the CFC is not included in the definition of Gross Receipts.

### **3. OTHER TERMS**

It is understood and agreed that all other terms and conditions of Primary Agreement between the parties hereto shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Supplemental Agreement the day and year first above written.

ATTEST:

THE WICHITA AIRPORT AUTHORITY  
WICHITA, KANSAS

By \_\_\_\_\_  
Karen Sublett, City Clerk


By \_\_\_\_\_  
Carl Brewer, President  
"LESSOR"

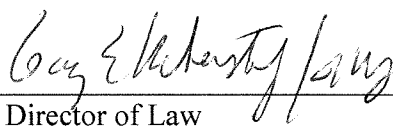
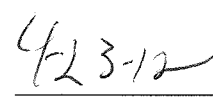
By  \_\_\_\_\_  
Victor D. White, Director of Airports

ATTEST:

THE WICHITA LANDSMEN, LLC  
d/b/a Budget Rent A Car of Kansas, Inc.

By \_\_\_\_\_

By  \_\_\_\_\_  
"LESSEE"

APPROVED AS TO FORM:  \_\_\_\_\_ Date:  \_\_\_\_\_  
Director of Law



**City of Wichita  
City Council Meeting  
May 8, 2012**

**TO:** Wichita Airport Authority

**SUBJECT:** United Air Lines, Inc. – Supplemental Agreement No. 11

**INITIATED BY:** Department of Airports

**AGENDA:** Wichita Airport Authority (Consent)

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**Recommendation:** Approve the Supplemental Agreement.

**Background:** The Wichita Airport Authority (WAA) has uniform Use and Lease Agreements with United Air Lines, Inc. (United) and Continental Airlines, Inc. (Continental). United has acquired Continental, and both airlines are completing the process of merging operations, including the submittal of required documentation to the Federal Aviation Administration for a single operating certificate. United and Continental intend to consolidate operations and respective Use and Lease Agreements with the WAA at Wichita Mid-Continent Airport.

**Analysis:** It is the normal practice of the WAA to enter into contractual agreements with the passenger-carrying airlines serving Wichita Mid-Continent Airport in order to establish a business relationship and a basis for rentals, fees, and charges. United is requesting to incorporate the space currently leased to Continental into United's leased space. A supplemental agreement reflecting these changes is now necessary.

**Financial Considerations:** There is no financial impact to the WAA due to relocating Continental's previously leased space.

**Goal Impact:** The Airport's contribution to the Economic Vitality of Wichita is promoted through extending agreements in cooperation with the airlines, thereby continuing airline operations and service in Wichita.

**Legal Considerations:** The Law Department has approved the Supplemental Agreement as to form.

**Recommendations/Actions:** It is recommended that the Wichita Airport Authority approve Supplemental Agreement No. 11 and authorize the necessary signatures.

**Attachment:** Supplemental Agreement No. 11.

SUPPLEMENTAL AGREEMENT NO. 11

AIRLINE AIRPORT USE AND LEASE AGREEMENT  
WICHITA MID-CONTINENT AIRPORT

BY AND BETWEEN

THE

WICHITA AIRPORT AUTHORITY

AND

UNITED AIR LINES, INC.

THIS SUPPLEMENTAL AGREEMENT NO. 11 made and entered May 15, 2012, by and between the WICHITA AIRPORT AUTHORITY, hereinafter referred to as "AUTHORITY", and UNITED AIR LINES, INC., hereinafter referred to as "AIRLINE".

WITNESSETH:

WHEREAS, the parties hereto have heretofore entered into an Airline Airport Use and Lease Agreement dated April 4, 2000, for the purpose of providing air service to the traveling public using Wichita Mid-Continent Airport; and

WHEREAS, the original Agreement has been amended by Supplemental Agreement No. 1 dated May 23, 2000, for the purpose of including clarifying language to allow ingress and egress through airline exclusive-use premises for access of joint-use premises; Supplemental Agreement No. 2 dated May 6, 2003, which extended the term of the Agreement and modified exhibits within the Agreement; and Supplemental Agreement No. 3 dated October 7, 2003, which reflects revised contract language and modifies space; Supplemental Agreement No. 4 dated December 21, 2004, which extended the term of the Agreement and modified the exhibits within the Agreement; Supplemental Agreement No. 5 dated January 9, 2007 which extended the term of the Agreement and modified the exhibits within the Agreement; Supplemental Agreement No. 6 dated December 11, 2007 which extended the term of the Agreement and modified the exhibits within the Agreement; Supplemental Agreement No. 7 dated January 13, 2009, which extended the term of the Agreement and modified the exhibits within the Agreement; Supplemental Agreement No. 8 dated February 23, 2010, which extended the term of

the Agreement, modified certain language of the Agreement and modified exhibits within the Agreement; Supplemental Agreement No. 9 dated February 15, 2011, which extended the term of the Agreement and modified exhibits within the Agreement; and Supplemental Agreement No. 10, dated February 28, 2012, which extended the term of the Agreement; and

WHEREAS, the Authority and Airline are now desirous of entering into this Supplemental Agreement No. 11 for the purpose of modifying exhibits within the Agreement; and

NOW, THEREFORE, the parties further agree as follows:

**1.**

**Article III – Premises, Section 3.1.A. – Airline Premises**, shall be modified to include the following language:

Exhibits “C”, attached hereto and incorporated herein, shall replace Exhibit “C” included in the original Agreement and Supplemental Agreements.

**2.**

**Other Terms.** It is understood and agreed that all other terms and conditions of any and all existing Agreements and Supplements between the parties hereto, as amended hereby, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

ATTEST:

THE WICHITA AIRPORT AUTHORITY  
WICHITA, KANSAS

By \_\_\_\_\_  
Karen Sublett, City Clerk

By \_\_\_\_\_  
Carl Brewer, President  
“Authority”

By \_\_\_\_\_  
Victor D. White, Director of Airports

ATTEST:

UNITED AIR LINES, INC.

By \_\_\_\_\_

By \_\_\_\_\_  
“Airline”

APPROVED AS TO FORM: \_\_\_\_\_ Date: \_\_\_\_\_  
Director of Law

**EXHIBIT "C"**  
SUMMARY OF TERMINAL AREAS

**AIRLINE TERMINAL SPACE**

	<u><b>Ticket Counter</b></u> (Type 1)	<u><b>Hold Rooms</b></u> (Type 2)	<u><b>Offices</b></u> (Type 3)	<u><b>VIP/Club</b></u> (Type 3)	<u><b>Operations</b></u> (Type 4)	<u><b>Bag Make-Up</b></u> (Type 4)	<u><b>Total</b></u>	
AirTran	233	1,689	581	-	150	651	3,304	s.f.
America West (US Airways)	-	-	-	-	-	-	-	s.f.
American	200	2,224	1,098	-	1,728	1,752	7,002	s.f.
American Eagle	-	-	-	-	-	-	-	s.f.
Atlantic Southeast	-	-	-	-	-	-	-	s.f.
Chautauqua	-	-	-	-	-	-	-	s.f.
Continental	-	-	-	-	-	-	-	s.f.
Delta	434	3,221	1,589	-	1,637	1,093	7,974	s.f.
Frontier Holdings	233	1,523	467	-	317	399	2,939	s.f.
Mesa	-	-	-	-	-	-	-	s.f.
Northwest	-	-	-	-	-	-	-	s.f.
Pinnacle	-	-	-	-	-	-	-	s.f.
Republic	-	-	-	-	-	-	-	s.f.
Skywest	-	-	-	-	-	-	-	s.f.
United	440	2,937	1,145	-	203	668	5,393	s.f.
Vacant	1,120	7,711	4,336	-	19,749	3,981	36,897	s.f.
	2,660	19,305	9,216	-	23,784	8,544	63,509	s.f.

**AIRLINE JOINT USE SPACE**

	<u><b>Concourses</b></u> (Type 2)	<u><b>Bag Claim</b></u> (Type 2)	<u><b>Elevators</b></u> (Type 4)	<u><b>Inbound Baggage/ Tug Lane</b></u> (Type 5)	<u><b>Stairwells</b></u> (Type 5)	<u><b>Total</b></u>	
Joint Use	7,917	7,808	1,205	4,374	1,661	22,965	s.f.

City of Wichita  
City Council Meeting  
May 8, 2012

**TO:** Wichita Airport Authority

**SUBJECT:** ExcelAire, LLC  
Lease Agreement for facility use of 1761 Airport Road, Suite 300  
Wichita Mid-Continent Airport

**INITIATED BY:** Department of Airports

**AGENDA:** Wichita Airport Authority (Consent)

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**Recommendation:** Approve the Agreement.

**Background:** ExcelAire, LLC (ExcelAire) is a dynamic aviation firm specializing in worldwide jet and helicopter charters, aircraft management, maintenance, and sales. ExcelAire has grown to manage the New York metropolitan area's largest locally based Gulfstream jet fleet. The company also operates Cessna Citations, Learjets, Hawkers, and the ultra long-range Global Express, plus a fleet of helicopters including state-of-the-art Bell, Sikorsky, and Eurocopter aircraft. ExcelAire is an FAA Certificated Air Carrier and Approved Repair Station operating under Federal Aviation Regulations Parts 91, 135, and 145. ExcelAire requests to lease an office at the multi-tenant facility located at 1761 Airport Road on Wichita Mid-Continent Airport.

**Analysis:** The initial term to lease the office space is for two years with three, one-year option terms.

**Financial Considerations:** The facility rental rate of \$12 per sq. ft. for 120 square feet of office space during the initial term will result in new annual revenue to the Wichita Airport Authority of \$1,440.

**Goal Impact:** The Airport's contribution to the Economic Vitality and Quality of Life of Wichita is promoted through negotiating agreements which allow the Airport system's business partners to continue operations on the Airport, which generates rental income for the Wichita Airport Authority and allows the Airport to continue its operation on a self-sustaining basis.

**Legal Considerations:** The Lease Agreement has been approved as to form by the Law Department.

**Recommendations/Actions:** It is recommended that the Wichita Airport Authority approve the Lease Agreement and authorize the necessary signatures.

**Attachments:** Agreement.

AGREEMENT

By and Between

WICHITA AIRPORT AUTHORITY  
Wichita, Kansas

and

ExcelAire, LLC  
for

Use of Facility – 1761 Airport Road – Suite 300  
Wichita Mid-Continent Airport  
Wichita, Kansas

THIS AGREEMENT is entered into this May 8, 2012, between THE WICHITA AIRPORT AUTHORITY, Wichita, Kansas (LESSOR) and EXCELAIRE, LLC., (LESSEE).

WHEREAS, LESSOR is a governmental or quasi-governmental entity authorized under the laws of the State of Kansas to own and operate one or more airports, with full, lawful power and authority to enter into binding legal instruments by and through its governing body; and

WHEREAS, LESSOR owns, operates, regulates, administers, and maintains the campus of Wichita Mid-Continent Airport (Airport); and

WHEREAS, LESSEE is an entity authorized to operate in the State of Kansas that desires to lease real property commonly known as 1761 Airport Road, Suite 300, Wichita, Kansas, the office space defined below (Premises) on the campus of Wichita Mid-Continent Airport (Airport) from LESSOR under the terms and conditions set forth below in this Use and Lease Agreement (Agreement).

NOW, THEREFORE, in consideration of the mutual promises and agreements herein set forth, LESSOR and LESSEE do hereby covenant and agree as follows:

## **1. PREMISES**

LESSOR does hereby lease to LESSEE the Premises located at 1761 Airport Road – Suite 300 on Wichita Mid-Continent Airport, consisting of one hundred and twenty (120) square feet of office space, all referred to herein as the Premises, as outlined on Exhibit "A", attached hereto and made a part hereof.

## **2. INITIAL TERM**

The Term of this Agreement shall commence on April 23, 2012, and shall continue for a period of two (2) years ("Initial Term"), with the Initial Term expiring on April 30, 2014, unless otherwise terminated under provisions agreed to herein.

## **3. OPTION TERM**

This Agreement may be renewed for three (3), one-year periods ("Option Term"), with the last Option Term expiring on April 30, 2017, provided LESSEE is not in default hereunder beyond any applicable grace or cure periods in rental or other payments to LESSOR at the time such notice exercising the Option Term is given. If LESSEE chooses to exercise its option to renew, written notice shall be submitted to LESSOR no less than ninety (90) days prior to the expiration of the Initial Term. If LESSEE is in default of any obligation under this Agreement beyond the time periods expressly allowed in this Section, then any notice attempting to exercise the Option Term shall be void.

## **4. DEPOSIT**

In advance, LESSEE shall provide a security deposit equal to one month's payment. This security deposit shall be retained by the LESSOR during the term hereof as security for the full, faithful performance of and compliance with, on the part of the LESSOR, all of the provisions, terms and conditions of this Agreement. Said security deposit shall be returned to Lessee upon expiration or termination of this Agreement less any moneys due the LESSOR.



## **5. FACILITY RENT DURING INITIAL TERM**

The parties hereby agree that the Facility Rent for the Initial Term and for the three (3) contemplated option terms, effective April 23, 2012, shall be set at \$12.00 per square foot per year. This rental will result in an annual payment of \$1,440.00, payable in monthly installments of \$120.00.

## **6. OTHER FEES AND CHARGES**

It is understood and agreed by LESSEE that LESSOR may assess fees and charges to LESSEE according to rates established by LESSOR's Schedule of Fees and Charges. Such Schedule shall be amended from time to time by action of the LESSOR.

Any amounts due LESSOR from LESSEE for utility, maintenance, reimbursements, or other special charges will be paid by LESSEE within thirty (30) days of the date of the invoice.

## **7. PAYMENTS**

LESSEE shall make all payments to the Wichita Airport Authority, and in a form acceptable to LESSOR. Payments made by check and reports shall be delivered or mailed to:

Wichita Airport Authority  
2173 Air Cargo Road  
Wichita, Kansas 67209

or such other address as designated in writing.

LESSEE shall pay to LESSOR in advance on the first day of each month, without demand or invoicing, facility rental for the Premises as set forth herein. In the event LESSEE fails to make payment within ten (10) days of the dates due as set forth in this Section, then LESSOR may charge LESSEE a monthly service charge of twelve percent (12%) on an annual basis for any such overdue amount, plus reasonable attorneys' and administrative fees incurred by LESSOR in attempting to obtain payment.

## **8. LESSEE'S IDENTITY**

LESSEE must be a natural person or an entity, firm, company, corporation, partnership or a joint venture which has substance under State of Kansas Law and a specific legal identity and business purpose as registered with the Secretary of State in the LESSEE's state of business residence.

## **9. PERMITTED USE OF PREMISES**

LESSEE shall have the right of ingress and egress, in common with others for the benefit of its employees, invitees, contractors, agents and representatives, to be exercised in a reasonable manner. This right of ingress and egress is granted for activities incidental or related to LESSEE'S approved activities, and for no other purposes except as may be approved in writing by LESSOR. This right is subject to federal, state and local security and safety requirements and standards. As required by Kansas state statute, it is understood and agreed that the Premises shall be used and occupied for aviation purposes or purposes incidental or related thereto and the primary purpose shall be for the operation of an aircraft sales and chartering firm and general office space of the LESSEE in the administration of its business.

LESSEE recognizes that other tenants now and hereafter may occupy other portions of the Airport, and that such other tenants shall have the right to use public roadways, streets, ramps, taxiways, runways, access gates, lighting, beacons, navigational aids, or other conveniences for aeronautical operations, and these common facilities are not under an exclusive use lease; and LESSEE shall conduct its operations in such a manner as to not impede access by others to these common facilities, nor in any other way interfere with, nor disrupt the business of other tenants or the quiet enjoyment of their leasehold interests at the Airport.

LESSOR reserves the right to grant and/or permit other parties the right to use any portion of the Airport, except that described in Section 1, Premises, for any permitted purpose, and upon any fair and non-discriminatory terms established by the LESSOR.

LESSEE, its affiliated entities, subsidiaries, employees, agents, representatives, contractors, and subcontractors, will not transact or otherwise engage in any other activities, business, and/or services on or from the Premises, except as described in this Agreement, unless such is provided for by a separate written approval, or amendment to this Agreement, and subject to approval by LESSOR.

The parties acknowledge that this lease is for office space, and does not include airfield access.

## **10. PROHIBITED USE OF PREMISES**

The Premises shall not be used for any purpose not expressly authorized in Section 9, Permitted Use of Premises. The following operations, services and concessions shall be specifically prohibited on or from the Premises or any other location at the Airport:

- (a) Commercial catering, restaurant and/or lounge concessions;
- (b) Commercial (for hire) ground transportation;
- (c) Commercial “paid” parking;
- (d) Commercial hotel or lodging;
- (e) Commercial outdoor advertising;
- (f) Sale of non-aviation products and services;
- (g) Revenue-producing communication systems or systems not directly applicable to LESSEE’s operations on the Premises;
- (h) Automobile rental service;
- (i) Any activity considered by LESSOR to not be aviation purposes or purposes incidental or related thereto.

## **11. LESSEE’S RIGHTS AND PRIVILEGES**

LESSEE shall have the following rights and privileges on the Premises and on the Airport:

- (a) The rights to install, operate, repair, and store upon the Premises all personal property and fixtures necessary for the conduct of LESSEE’s lawful business.
- (b) The right of ingress and egress to and from the Premises, which rights shall extend to LESSEE’s invitees, contractors, subcontractors, agents, representatives and employees; subject, however, to all reasonable security regulations;
- (c) The right in common with others authorized to do so, to use the common areas of the Airport.

## **12. LESSOR’S RIGHTS AND PRIVILEGES**

LESSOR expressly reserves from the Premises:

- (a) Mineral Rights. All gas, oil and mineral rights in and under the soil.
- (b) Water Rights. All statutory, exempt, vested, and granted appropriation rights for the use of water, and all rights to request further appropriations for the Premises.
- (c) Airspace. A public right of flight through the airspace above the surface of the Premises. This public right of flight will include the right to cause or allow in said

airspace, any noise inherent in the operation of any aircraft used for navigation or flight through said airspace or landing at, taking off from, or operation on the Airport. No liability on the part of LESSOR or any Tenant will result from the exercise of this right.

- (d) Navigational Aids. The right to install, maintain and modify and/or permit others to install, maintain and modify on the Premises visual and electronic navigational aids.
- (e) Entry and Inspection of Premises. The right of LESSOR, its authorized officers, employees, agents, contractors, subcontractors, authorized government agents, or other representatives to enter upon the Premises:
  - (1) To inspect at reasonable intervals during regular business hours (or any time in case of emergency or lawful investigation) to determine whether LESSEE has complied, and is complying with the terms and conditions of this Agreement;
  - (2) To Inspect Premises, facilities, and equipment for compliance with laws, regulations and/or codes of the federal, state or local government, airport rules and regulations and airport standard operating procedures; and
  - (3) To construct or erect new facilities, or to perform maintenance, repair, or replacement relating to the Premises or any facility thereon, as may be required and necessary, but LESSOR shall not be obligated to exercise this option.
- (f) Radio/Wireless Communication Systems. The right to approve or withhold approval of any use of fixed RF Systems for the transmission of radio frequency signals in/on the Premises.
- (g) General Provisions. The right to exercise any and all rights set out in Section 41, General Provisions.
- (h) Signage. The right to enter onto the premises for installation, and the right to install any signage on the Premises required by law, order, rule, regulation, Airport Security Program or federal directive.

Provided that exercise by LESSOR of any such reserved rights (a) through (h) shall be without expense to the LESSEE and shall not unreasonably or materially interfere with LESSEE's use of the Premises and shall not delay LESSEE in the exercise of its rights or the performance of its duties hereunder or increase the costs of such performance.

### **13. NON-INTERFERENCE WITH AIRPORT OPERATIONS**

LESSEE covenants and agrees that it shall not allow any condition on the Premises, nor permit the conduct of any activity on such Premises, which shall materially or adversely affect the development, improvement, operation, or maintenance of the Airport or its facilities, nor shall LESSEE use or permit the Premises to be used in any manner which might interfere with the landing and take-off of aircraft from the Airport or otherwise constitute a hazard to the general

public, or to LESSOR's tenants or the customers, agents, invitees, contractors, representatives and employees of those tenants.

LESSEE covenants and agrees that it shall not allow any condition on the Premises, nor permit the conduct of any activity on such Premises, which shall materially or adversely affect, infringe upon, block or interrupt the operations and business activity of other airport tenant leaseholds.

#### **14. COOPERATION WITH AIRPORT DEVELOPMENT**

LESSEE understands and agrees that LESSOR may pursue Airport development, improvements and maintenance activities from time-to-time that may affect the Premises and other areas of the Airport. LESSEE agrees to work cooperatively and in good faith with the LESSOR and other tenants and contractors in development, improvement and maintenance activities to minimize any disruptions. If requested by the LESSOR, LESSEE shall cooperate with and assist the LESSOR to the greatest extent possible in the development and implementation of any plans, designs, ingress/egress, or transition that may arise in connection with such Airport development, improvement, and maintenance activities. LESSOR may temporarily or permanently close, re-route, or consent to the closing or re-routing of any method of ingress or egress on the Airport, so long as the means of ingress and egress are reasonably equivalent to current access available to LESSEE. LESSOR may temporarily close the runway, taxiways, ramps or portions thereof for purposes of maintenance, replacement, re-construction or expansion. Provided that exercise by LESSOR of any such Airport development, improvement, or maintenance shall be without expense to the LESSEE and shall not unreasonably or materially interfere with LESSEE's use of the Premises, and shall not delay LESSEE in the exercise of its rights or the performance of its duties hereunder or increase the costs of such performance.

#### **15. TITLE TO FACILITIES, IMPROVEMENTS AND FIXTURES**

It is understood and agreed that title to the Premises and to all existing and future structures, facilities, improvements and fixtures shall be, and shall remain, exclusively with LESSOR, the Wichita Airport Authority.

LESSEE shall, without cost to LESSOR, furnish and install all non-attached furniture, movable partitions, decorations, accessories, equipment, and tools necessary to conduct its business, which shall retain status as personal property even though temporarily affixed to the Premises. Title/ownership to non-attached personal property shall remain with LESSEE.

The term "fixtures", whenever used in this Agreement, shall be construed to include all structures and fixed systems and equipment erected or installed upon the Premises, all fencing, grading and pavement, all underground wires, cables, pipes, conduits, tanks, drains and drainages; and all other property of every kind and nature which is permanently affixed to the Premises, except LESSEE's personal property.

All facilities, structures and improvements, and alterations and additions to the Premises, excluding personal property of LESSEE, placed at the expense of LESSEE, shall remain upon and be surrendered with the Premises as a part thereof, on any termination of this Agreement, for any cause, and shall remain the property of the LESSOR.

## **16. LIENS**

LESSEE shall take or cause to be taken all steps that are required or permitted by law in order to avoid the imposition of any lien upon the Premises or any improvements thereon. Should any lien be placed on the Premises or any improvements thereon, LESSEE shall cause to be removed any and all liens of any nature. This obligation includes, but is not limited to, tax liens and liens arising out of or because of any financing, construction or installation performed by or on behalf of LESSEE or any of its contractors or subcontractors upon LESSEE's Premises or arising out of or because of the performance of any work or labor to it or them at said Premises or the furnishing of any materials to it or them for use at said Premises. Should any such lien be made or filed, LESSEE shall bond against or discharge the same within thirty (30) days after actual notice of the same from any source, whether from LESSOR or otherwise, and provide written proof of discharge or bonding to LESSOR within that time. LESSEE acknowledges that its interest in the Premises is a leasehold, and that notwithstanding its construction of improvements on the Premises, such improvements accrue to the LESSOR and that it has no equity interest in the Premises which can support a mortgage lien. LESSEE may not mortgage or pledge as collateral its leasehold interest herein without the prior written consent of the LESSOR.

LESSOR may consent, upon LESSEE's written request, to an assignment of rents to a governmentally regulated and insured commercial lender as partial security for financing of LESSEE's activities on the Premises, which assignment is intended to be a present transfer to such lender of all of LESSEE's rights to collect and receive rents and charges from approved users, operators, sublessees and permittees. Lender(s) shall have no rights to assign this Agreement or sublease the Premises without the prior written consent of the LESSOR as required under Section 19, Assignment and Section 20, Subleasing, Permitting and Contracting. Upon LESSEE's written consent LESSOR agrees to give Lender(s) notice of any default or cancellation of the Agreement, and allow Lender(s) the same opportunity as the LESSEE under the Agreement to correct any condition or cure any default. Nothing in this Section is intended to

relieve the LESSEE of its obligations under this Agreement.

## **17. TAXES, LICENSES AND PERMITS**

LESSEE shall promptly pay all taxes, excises, license fees and permit fees of whatever nature applicable to its operation or lease of the Premises. LESSEE may elect, however, at its own cost and expense, to contest any such tax, excise, levy, or assessment. LESSEE will keep current all Federal, State or local licenses, operating certificates or permits required for the conduct of its operations. LESSEE represents and warrants to LESSOR that it has obtained all license, franchise, operating certificates or other agreements or permits necessary to operate LESSEE's operation in accordance with the terms of this Agreement, and LESSEE covenants to keep all such licenses, franchises, permits, operating certificates and other agreements in full force and effect during the Term of this Agreement.

LESSEE shall pay all lawful taxes and assessments which, during the term hereof, may become a lien upon or which may be levied by the State, County, City or any other tax levying body, upon the leased Premises or upon any taxable interest of LESSEE acquired in this lease agreement, or any taxable possessory right which LESSEE may have in or to the leased Premises, including any improvements or facilities located on the Premises, as well as LESSEE shall also pay all lawful taxes and assessments on taxable property, real or personal, owned by LESSEE in and about said Premises. Nothing in this Section shall prevent LESSEE from contesting the legality, validity or application of any such tax or assessment to the full extent LESSEE may be lawfully entitled so to do.

## **18. UTILITIES**

The cost of electricity, gas, and water shall be included as a part of the lease rental rate. Any other costs, such as telephone and cable, but not limited to these, shall be at LESSEE's initiation and expense. LESSOR shall not be liable to LESSEE for damages arising out of any cessation or interruption of gas, water, electricity, telephone, or other utility service during the lease term or any extension thereon.

LESSOR is the only entity allowed to install or remove any cabling. Cabling includes, but is not limited to, any type of telecommunications or network cable such as CAT3, CAT5, CAT6; fiberoptics cable; and/or coaxial cable. Cabling for basic phone service shall be provided as part of the rental rate. However, should additional network cable, coaxial for security or fiber optic cable, be required for LESSEE's operation, LESSEE shall be required to make arrangements with LESSOR, and such installation shall be at LESSEE's expense. It shall be LESSEE's

responsibility to contract for services using such cables from LESSEE's preferred service provider.

Unless otherwise agreed upon in writing, if LESSEE requires utilities beyond that currently provided or that are available to be extended to the Premises boundary, LESSEE agrees to pay the full cost and expense associated with the upgrade/extension/installation of all such utilities related to its use of the Premises, and to comply with all provisions for maintaining such utilities.

The LESSOR reserves for itself the right to upgrade, extend, install, maintain and repair all utilities and services on or across the Premises, whether or not such services or utilities are for the benefit of LESSEE. The LESSOR shall take all reasonable care and diligence to protect existing improvements and utilities, and shall avoid to the greatest extent possible any unreasonable interference or interruption to LESSEE's operations.

All electrical, data and communications utilities installed or caused to be installed shall be underground, and no utility services or other cables or wires shall be installed on poles or otherwise above ground. Unless otherwise provided in this Agreement, all utilities and conduits or ducts installed by anyone on the Premises shall be considered fixtures as defined under Section 15, Title to Facilities, Improvements and Fixtures, and shall become the owned property of LESSOR.

Wastes not legally permitted and authorized for disposal into the storm and/or sanitary drainage system shall not be discharged, connected or introduced into storm and/or sanitary drains and the storm and/or sanitary drainage system. LESSEE shall take all reasonable precautions to prevent the discharge of material into any drainage system that would create interference with the flow therein, or that would cause a hazard or unlawful contamination thereto.

## **19. ASSIGNMENT**

With the exception of assignment to a parent or "holding" company or subsidiary, LESSEE shall have no right to assign or delegate any of its rights or duties pursuant to this Agreement without the prior written consent of LESSOR. Any assignment or delegation so made and so permitted shall be subject to all terms, conditions and other provisions of this Agreement. Any attempted assignment or delegation in violation of this provision shall be void and have no force or effect whatsoever.



## **20. SUBLEASING, PERMITTING AND CONTRACTING**

LESSEE shall not sublease, rent or permit any persons, firms or corporations to occupy any part of the Premises, or to provide any type of commercial or non-commercial operation, aviation or otherwise, on the Premises without having first received the prior written consent of LESSOR, granted only under the following conditions:

(a) Any arrangements must be in the form of a written instrument and must be for purposes and uses of the Premises as authorized under this Agreement, and shall be subject to the provisions of this Agreement. LESSEE shall submit a copy of such proposed instrument at the time of requesting consent of LESSOR.

(b) All sublease(s) must comply with Sections 9, 10, 11, and 12 of this Agreement, and will be reviewed for compliance by LESSOR to that end. Any arrangement for the subleasing of space must be in conformance with the use of the Premises outlined in this Agreement, unless expressly approved otherwise in writing by LESSOR.

(c) LESSEE must keep current records on file and available for LESSOR's inspection, that describes the nature and document the legitimacy of the sublessee's business, including all current municipal, state, or local licenses or permits required for the conduct of sublessee's business.

(d) LESSEE hereby agrees that it shall incorporate language acceptable to LESSOR into all of its sublease agreements, placing on any sublessee and that sublessee's affiliated entities, customers, employees, invitees, contractors, and subcontractors similar restrictions, as may be appropriate to its approved uses as those which bind LESSEE and its use of the facility through this Agreement. LESSEE shall also incorporate and make reference to this Agreement, as may be amended from time to time, to ensure sublessee's operations and conduct are subject to and are in compliance with the terms and conditions of this Agreement, as may be amended from time to time. Any sublease agreement shall explicitly state that it is subordinate to this Agreement, and that the sublessee shall never obtain rights in the Premises greater than those held by LESSEE under this Agreement, as amended. Any sublessee shall be specifically subject to eviction from the Premises as a result of termination, cancellation, or expiration of this Agreement, irrespective of sublessee's state of compliance with the terms of its sublease.

(e) LESSEE shall at all times during the term(s) of approved sublease(s), remain responsible to LESSOR for the compliance of its sublessees with the terms and conditions of any approved sublease and with this Agreement. LESSOR may look to LESSEE directly to satisfy any failure of sublessee to comply with these documents.

(f) Consent to one sublease permit or subcontract shall not be deemed consent to any subsequent sublease permit or subcontract. Prior written consent of the LESSOR shall be required for each sublease permit or subcontract executed by the LESSEE.

## **21. LIABILITY INSURANCE**

LESSEE shall procure, maintain and carry, at its sole cost, in accordance with and/or until completion of this Agreement all insurance, as required per the amounts as set forth below. Insurance shall be furnished by a company licensed to do business in Kansas.

Insurance certificates shall be issued on a standard ACORD form and include the NAIC number of the insuring company. Each insurance company's rating, as shown in the latest Best's Key Rating Guide, shall be no less than A-VII, unless otherwise approved by the LESSOR, or from a Workers' Compensation pool approved by the State of Kansas. Insurance certificates must be received and approved by the LESSOR prior to occupancy.

Should any of the described policies in this Agreement be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. The LESSOR reserves the right to request and receive for review certified copies of any and all insurance policies to which this Agreement is applicable prior to commencement of work. The failure of LESSOR to reject the LESSEE'S certificate of insurance shall not be deemed to constitute an acceptance by the LESSOR of a deficient certificate of insurance. If the LESSEE fails to procure or maintain any of the specified coverages the LESSOR has the right, but not the obligation, to secure the coverage and charge the cost to the LESSEE along with a 20% administrative fee.

The LESSEE shall be responsible for determining the types and limits of insurance coverage required by any approved sublessee. At a minimum, such sublessee shall carry Workers' Compensation, commercial general liability (minimum of \$1,000,000 per occurrence) and commercial automobile liability (minimum of \$1,000,000 combined single limit). LESSEE shall require in any approved sublease that the Wichita Airport Authority and the City of Wichita shall be added as primary and non-contributory additional insureds on the sublessee's commercial general liability policy.

The requirements, procurement and carrying of the required insurance shall not limit any of the LESSEE's obligations or liability under this Agreement or as a matter of law.

Where "minimum limits" of insurance are specified in this Section, such minimum insurance limits are required and considered by LESSOR to be the lowest insured amounts acceptable under this Agreement. The LESSEE is not limited or restricted whatsoever in securing additional insurance coverage and higher insured limits than those specified herein if, at the LESSEES determination and discretion and commensurate with the type of activity and associated business and operational risk, additional coverage and higher limits are necessary and appropriate.

Insurance shall include the following terms, conditions and minimum limits:

a) WORKERS' COMPENSATION

LESSEE shall maintain Workers' Compensation insurance to cover the statutory requirements of the Workers' Compensation laws of the State of Kansas for its operations on the Premises, and when applicable, to Federal Laws and Voluntary Compensation and Employer's Liability (including occupational disease) coverage. In the alternate, LESSEE may provide an appropriate statutory waiver.

b) COMMERCIAL GENERAL LIABILITY

LESSEE shall maintain Commercial General Liability Insurance on an occurrence form. Coverage shall include on-going operations, product/completed operations (minimum of two years following the project completion) and Personal and Advertising Injury. Minimum limits, as outlined herein, shall be:

General Aggregate (per project)	\$500,000
Products/Completed Operations	\$500,000
Personal and Advertising Injury	\$500,000
Each Occurrence	\$500,000

The Wichita Airport Authority and the City of Wichita shall be added as primary and non-contributory additional insureds.

## **22. ALL RISK PROPERTY INSURANCE**

LESSOR, at its expense, throughout the term of this Agreement, shall cause the structures, facilities, improvements and fixtures on the Premises to be insured against loss or damage by fire or other casualty equal to the full replacement value thereof and by an all risk coverage policy furnished by a company licensed to do business in Kansas. Such policy shall not exclude, or in the alternative, shall carry full coverage endorsements for damage from tornado, hail, flood, and sewer backup. The proceeds of any payments made under such insurance policy or policies shall be used to rehabilitate or reconstruct the insured facilities, subject to the provisions governing damage or destruction found at Section 37, Damage or Destruction.

### **23. SUBROGATION OF INSURANCE**

LESSOR hereby waives any and all rights of recovery against LESSEE for or arising out of damage or destruction of the building, or the demised Premises, or any other property of LESSOR, from causes then included under any of its property insurance policies, to the extent such damage or destruction is covered by the proceeds of such policies, whether or not such damage or destruction shall have been caused by the negligence of LESSEE, its agents, servants or employees or otherwise, but only to the extent that its insurance policies then in force permit such waiver without diminution of LESSOR coverage.

LESSEE hereby waives any and all rights of recovery against LESSOR for or arising out of damage to or destruction of any property of LESSEE from causes then included under any of its property insurance policies, to the extent such damage or destruction is covered by the proceeds of said policies, whether or not such damage or destruction shall have been caused by the negligence of LESSOR, its agents, servants or employees or otherwise, but only to the extent that its insurance policies then in force permit such waiver.

### **24. LOSS OF PERSONAL PROPERTY**

Any personal property of LESSEE or others placed in or upon the Premises shall be at the sole risk of the LESSEE, and LESSOR shall not be responsible or liable for any loss, damage and replacement thereto, regardless of the cause of such loss or damage, and the LESSEE waives all rights of subrogation against recovery from the LESSOR for such loss or damage unless such loss or damage is the result of the LESSOR's negligence.

### **25. CANCELLATION BY LESSOR**

The LESSOR, in addition to any other rights to which it may be entitled by law or otherwise, may cancel this Agreement by giving LESSEE written notice in the event of default by LESSEE under this Agreement continuing for more than sixty (60) days after the LESSEE's receipt of written notice of such event of default and opportunity to cure from the LESSOR, upon or after the happening of any one of the following events:

- (a) LESSEE shall file a voluntary petition in bankruptcy or that proceedings in bankruptcy shall be instituted against it and LESSEE is thereafter adjudicated bankrupt pursuant to such proceedings;
- (b) A court shall take jurisdiction of LESSEE and its assets pursuant to proceedings brought under the provisions of any Federal reorganization act;

- (c) Receiver of LESSEE's assets shall be appointed;
- (d) LESSEE shall be divested of its estate herein by other operation of law;
- (e) LESSEE shall fail to perform, keep and observe any of the obligations, terms, warranties or conditions contained in this Agreement that on the part of LESSEE are to be performed, kept or observed.

If any such condition or default cannot reasonably be corrected within the 60-day period and LESSEE has demonstrated due diligence with respect to curing said default, then, at the LESSOR's sole discretion, such cure period may be extended for consecutive periods of 30 days, as long as diligent progress is made toward cure, with a reasonably foreseeable resolution date. Under such circumstances, default may be treated as cured until cured. Should diligent progress cease, or the reason for default become apparent as insoluble, then the term shall cease and expire at the end of the 30-day extension then in effect.

Acceptance of rental by LESSOR for any period or periods after a notice of default is issued by LESSOR of any of the obligations, terms, warranties and conditions herein contained to be performed, kept and observed by LESSEE shall not be deemed a waiver of any other right on the part of LESSOR to cancel this Agreement for failure by LESSEE so to perform, keep and observe any of the obligations, terms, warranties, or conditions hereof to be performed, kept and observed. No waiver of default by LESSOR of any of the obligations, terms, warranties or conditions hereof to be performed, kept and observed by LESSEE, shall be construed to be or act as a waiver of any subsequent default of any of the obligations, terms, warranties or conditions herein contained to be performed, kept and observed by LESSEE.

## **26. CANCELLATION BY LESSEE**

The LESSEE, in addition to any other rights to which it may be entitled by law or otherwise, may cancel this Agreement by giving LESSOR written notice in the event of default by LESSOR under this Agreement continuing for more than sixty (60) days after the LESSOR's receipt of written notice of such event of default and opportunity to cure from the LESSEE, upon or after the happening of any one of the following events:

(a) Issuance by any court of competent jurisdiction of a permanent injunction in any way preventing or restraining the use of the Airport or any major part thereof for Airport purposes and the remaining in full force of such permanent injunction for a period of at least one hundred eighty (180) days.

(b) Inability of the LESSEE to use, for a period in excess of one hundred eighty (180) days, the Airport or any part of the facility because of any law, order, rule, regulation or other

action or non-action of the Federal Aviation Administration or any other governmental authority, or because of fire, earthquake, other casualties or acts of God or the public enemy.

(c) LESSOR shall fail to perform, keep and observe any of the obligations, terms, warranties or conditions contained in this Agreement that on the part of LESSOR are to be performed, kept or observed:

- i. LESSEE may give LESSOR written notice to correct such condition or cure such default, and if any such condition or default shall continue for sixty (60) days after receipt of such notice by LESSOR, LESSEE may terminate this Agreement and the term hereof shall cease and expire at the end of such sixty (60) days in the same manner and to the same effect as if it were the expiration of the Initial or Option Term, unless such condition or default cannot reasonably be corrected within the 60-day period and LESSOR has demonstrated due diligence with respect to curing said default, then such cure period may be extended for consecutive periods of 30 days, as long as diligent progress is made toward cure, with a reasonably foreseeable resolution date. Under such circumstances, default may be treated as cured until cured. Should diligent progress cease, or the reason for default become apparent as insoluble, then the term shall cease and expire at the end of the 30-day extension then in effect;

(d) Assumption by the United States Government or any other authorized agency thereof of the operation, control or use of the Airport and the facility herein described, or of any substantial part or parts thereof in such a manner as to substantially restrict the LESSEE for a period of one hundred eighty (180) days from operating on and within the facility.

(e) In the event of destruction of the facilities, improvements, or the demised Premises as more fully described in Section 37, Damage or Destruction.

## **27. MAINTENANCE AND REPAIR**

LESSEE, at its sole expense, shall at all times keep and maintain said Premises in a clean and sightly condition, free of trash, debris and obstructions.

LESSEE shall maintain and keep in repair at its own expense the interior of said Premises, keeping the same in proper condition, including painting, light bulb replacement, carpet cleaning and any other minor repairs required to keep the Premises in proper condition.

LESSOR shall be responsible for structural repairs to the building (including walls and foundation), ballast replacement and for damages to property or equipment covered by insurance.

LESSOR, its agents or employees, shall have the right to enter upon said Premises at any and all

reasonable times to inspect the condition of the same. Should LESSEE, refuse or neglect to maintain its Premises as herein provided, LESSOR shall have the right to perform such maintenance on behalf of and for the LESSEE after thirty days written notice to LESSEE. Any costs for such maintenance shall be paid for by LESSEE, not later than thirty (30) days following demand by LESSOR for such payment at LESSOR's costs, plus twelve percent (12%) as administrative reimbursement to LESSOR.

Notwithstanding any other provisions in this Lease, LESSOR hereby represents and warrants that all electrical, plumbing, heating and air conditioning and mechanical systems located at the Premises are in good working condition upon commencement of this Lease.

## **28. EXTERIOR SIGNS AND ADVERTISING**

LESSEE agrees that no signs or advertising material shall be erected on the Premises or on any improvement or facility on the Premises unless the design and layout of such signs and advertising material, together with the materials and method of construction of such signs and advertising material, shall have been approved in advance in writing by LESSOR, which approval shall not be unreasonably withheld or unduly delayed.

LESSEE shall not erect, install, operate, nor cause or permit to be erected, installed, or operated upon any non-leased Premises of the Airport property, any signs, banners, or other similar devices for its own business, or the business of others. This provision shall not have the effect of limiting or restricting LESSEE's right to enter into an agreement with LESSOR'S authorized and permitted marketing, advertising or signage agency for the display of informational, marketing or advertising media at approved designated locations on Airport property.

## **29. PORTABLE STORAGE CONTAINERS/STRUCTURES**

Unless specifically approved in writing, and under conditions specified by LESSOR, LESSEE shall not place or allow to be placed upon Premises, any type of portable storage container, trailer, unit, box, or barrel which is used to store merchandise and/or equipment and supplies outside of an enclosed permanent building or structure, which does not qualify as a building or structure under Title 18 of the Code of the City of Wichita. Unless specifically approved, and under conditions specified by LESSOR, LESSEE shall not place or allow to be placed upon Premises, any type of portable or temporary structure, trailer, mobile home, modular structure or device.

LESSOR will not unreasonably withhold approval of such container(s) and structure(s) if such is of a temporary nature for the purpose of supporting construction, alteration or improvement activity, or other approved project.

### **30. GRANTING OF EASEMENTS**

LESSEE shall not (i) grant easements, licenses and other rights or privileges in the nature of easements with respect to the land, or (ii) release existing easements, licenses, right-of-ways and other rights or privileges, and LESSEE agrees, to the extent that it may legally do so, that it will execute and deliver any instrument necessary or appropriate to confirm and grant or release any such easement, license, right-of-way or other right or privilege or any such agreement or other arrangement, upon receipt by LESSEE of (a) a copy of the instrument of grant or release or of the agreement or other arrangement, and (b) a written application signed by the LESSOR requesting execution and delivery of such instrument, provided that, such grant or release is not detrimental to the proper conduct of the business of LESSEE, and such grant or release will not impair the effective use or interfere with the efficient and economical operation of the facilities. LESSEE shall not request any payment or other consideration for such execution, the same being amply supported by the promises exchanged in this Agreement. Any payments or other consideration received by LESSOR for any such grant or with respect to or under any such agreement or other arrangement shall be and remain the property of LESSOR. The obligations of this Section shall survive termination of this Agreement.

### **31. RULES AND REGULATIONS**

LESSEE, its agents and employees, shall be subject to any and all applicable rules, regulations, Airport Standard Operating Procedures, orders and restrictions which are now in force or which may hereafter be adopted by the Wichita Airport Authority or the City of Wichita, Kansas, in respect to the operation of the Airport; and shall also be subject to any and all applicable laws, statutes, rules, regulations or orders of any governmental authority, federal or state, lawfully exercising authority over the Wichita Mid-Continent Airport or LESSEE's operations conducted hereunder.

LESSOR shall not be liable to LESSEE for any diminution or deprivation of its rights hereunder on account of the exercise of any such authority as in this Section provided, nor shall LESSEE be entitled to terminate this Agreement by reason thereof unless exercise of such authority shall so interfere with LESSEE's exercise of the rights hereunder as to constitute a termination of this Agreement by operation of law in accordance with the laws of the State of Kansas, or as set out in Section 26, Cancellation By Lessee.



### **32. ENCROACHERS, TRESSPASSERS AND OTHER THIRD PARTY HAZARDS**

LESSEE shall lawfully remove, or cause to be removed by LESSOR or other official law enforcement agency, all encroachers, trespassers and other third parties violating laws of the federal, state or local government, or who are not on the Premises for legitimate purposes.

### **33. FIRE EQUIPMENT AND SYSTEMS**

LESSOR shall furnish and maintain on the Premises sufficient smoke detectors, portable fire extinguishing equipment and sufficient fire suppression as maybe required by city code and insurance underwriters.

### **34. ENVIRONMENTAL COVENANTS**

(a) The LESSEE hereby covenants that it will not cause or permit any Hazardous Substances to be placed, held, located, or disposed of, on, under or at the Premises, other than in the ordinary course of business and in compliance with all applicable laws.

(b) In furtherance and not in limitation of any indemnity elsewhere provided in this Agreement to the LESSOR, the LESSEE hereby agrees to indemnify and hold harmless the LESSOR and the City of Wichita from and against any and all losses, liabilities, including strict liability, damages, injuries, expenses, including reasonable attorneys' fees, costs of any settlement or judgment and claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against, the LESSOR or the City of Wichita by any person or entity for or arising out of the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission, discharging or release from the Premises during any term of this lease of any Substance (hazardous or otherwise) regulated by any applicable statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability, including strict liability, or standards of conduct concerning, any Hazardous Substance (including, without limitation, any losses, liabilities, reasonable attorneys' fees, costs of any settlement or judgment or claims asserted or arising under the Comprehensive Environmental Response, Compensation and Liability Act, any federal, state or local so-called "Superfund" or "Super lien" laws), if such presence, escape, seepage, leakage, spillage, discharge, emission was caused by the LESSEE, or persons within the control of the LESSEE, its officers, employees, agents, contractors, invitees and/or licensees, or if such Substance (hazardous or otherwise) was owned by, or located on the Premises by, the LESSEE (without regard to the actual cause of any escape, seepage, leakage, spillage, discharge, emission or release).

(c) If, during the term of this Agreement, the LESSEE receives any notice of (i) the happening of any event involving the use (other than in the ordinary course of business and in

compliance with all applicable laws), spill, release, leak, seepage, discharge or cleanup of any Substance (hazardous or otherwise) on the Premises or in connection with the LESSEE's operations thereon or (ii) any complaint, order, citation or notice with regard to air emissions, water discharges, or any other environmental, health, or safety matter affecting the LESSEE from any persons or entity (including, without limitation, the United States Environmental Protection Agency (the "EPA") or the Kansas Department of Health and Environment ("KDHE")), the LESSEE shall immediately notify the LESSOR in writing of said notice.

(d) The LESSOR shall have the right, but not the obligation, and without limitation of the LESSOR's other rights under this Agreement, to enter the Premises or to take such other actions as deemed necessary or advisable to inspect, clean up, remove, resolve or minimize the impact of, or to otherwise deal with, any Substance (hazardous or otherwise) or environmental complaint following receipt of any notice from any person, including, without limitation, the EPA or KDHE, asserting the existence of any Substance (hazardous or otherwise) or an environmental complaint pertaining to the Premises or any part thereof which, if true, could result in an order, suit or other action against the LESSEE and/or which, in the reasonable judgment of the LESSOR, could jeopardize its interests under this Agreement. If such conditions are caused by circumstances within the control of the LESSEE or if such circumstances result from a Substance (hazardous or otherwise) owned by, or located on the Premises by, the LESSEE (without regard to the actual cause of any escape, seepage, leakage, spillage, discharge, emission or release) all reasonable costs and expenses incurred by the LESSOR in the exercise of any such rights shall be payable by the LESSEE, within 15 days of written demand by Landlord.

(e) If an event of default shall have occurred and be continuing, the LESSEE at the request of the LESSOR shall periodically perform, at the LESSEE's expense, an environmental audit and, if reasonably deemed necessary by the LESSOR, an environmental risk assessment, of the Premises, or the hazardous waste management practices and/or hazardous waste disposal sites used by the LESSEE with respect to the Premises. Such audits and/or risk assessments shall be conducted by an environmental consultant satisfactory to the LESSOR, and all environmental audits and environmental risk assessments must be reasonable satisfactory to the LESSOR. Should the LESSEE fail to perform any such environmental audit or risk assessment within 90 days of the written request of the LESSOR, the LESSOR shall have the right, but not the obligation, to retain an environmental consultant to perform any such environmental audit or risk assessment. All costs and expenses incurred by the LESSOR in the exercise of such rights shall be payable by the LESSEE on demand.

(f) Neither LESSEE nor LESSOR shall install or permit to be installed in the Premises friable asbestos, electrical equipment containing polychlorinated biphenyls (PCBs), or any Substance containing asbestos and deemed hazardous by federal or state regulations applicable to the Premises and respecting such material. The LESSEE shall defend, indemnify, and save the LESSOR and the City of Wichita harmless from all costs and expenses (including consequential damages) asserted or proven against the LESSEE by any person, as a result of the presence of said Substances, and the costs of any removal or compliance with such regulations, if said Substance was installed by the LESSEE, or persons within its control.

(g) Subject to any limitations or restrictions imposed by the Kansas Budget Law or Cash Basis Law, the LESSOR hereby agrees to indemnify and hold harmless the LESSEE from and against any and all losses, liabilities, including strict liability, damages, injuries, expenses, including reasonable attorneys' fees, costs of any settlement or judgment and claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against, the LESSEE by any person or entity for, arising out of, the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission, discharging or release from the Premises during the term of this Agreement and the period prior to the term of this Agreement of any Substance (hazardous or otherwise) (including, without limitation, any losses, liabilities, reasonable attorneys' fees, costs of any settlement or judgment or claims asserted or arising under the Comprehensive Environmental Response, Compensation and Liability Act, any federal, state or local so-called "Superfund" or "Super lien" laws, or any other applicable statute, law, ordinance, code, rule, regulation, order of decree regulating, relating to or imposing liability, including strict liability, or standards of conduct concerning any Hazardous Substance) unless such presence, escape, seepage, leakage, spillage, discharge, emission or release was caused by the LESSEE, or persons within the control of the LESSEE, its officers, employees, agents, invitees and/or licensees, or if such Substance (hazardous or otherwise) was owned by, or placed upon the Premises by, the LESSEE (without regard to the actual cause of any escape, seepage, leakage, spillage, discharge, emission or release except to the extent such was caused by the LESSOR).

Environmental compliance shall not be limited to those items noted within this lease but shall include any current or future federal, state, or local law, statute or regulation, that may be required of LESSEE's operation (storage or use of Substances (hazardous or otherwise), activities of LESSEE's employees or contracted vendor's etc.). Tenant shall provide LESSOR upon request copies of any plan, training program, training records, material safety data sheet or any other documentation required by said laws.

(h) The provisions of this article shall survive the termination of this Agreement.

### **35. IMPOSITIONS**

LESSEE shall, during the life of this Agreement, bear, pay and discharge, before the delinquency thereof, any and all impositions, including all lawful taxes and assessments imposed on the Premises, personal property thereon, or LESSEE's possessory right therein. In the event any impositions may be lawfully paid in installments, LESSEE shall be required to pay only such installments thereof as become due and payable during the life of this Agreement as and when the same become due and payable. LESSOR covenants that without LESSEE's written consent it will not, unless required by law, take any action intended to cause or induce the levying or assessment of any imposition (other than special assessments levied on account of special benefits or other impositions for benefits or services uniformly imposed) which LESSEE would be required to pay under this Section and that should any such levy or assessment be threatened or occur LESSOR shall, at LESSEE's request, fully cooperate with LESSEE in all reasonable ways to prevent any such levy or assessment. Nothing herein contained shall prevent LESSEE from contesting the legality, validity, or application of any such tax or assessment to the full extent LESSEE may be lawfully entitled to do so.

### **36. INDEMNITY**

LESSEE, shall protect, defend and hold LESSOR and the City of Wichita and its officers, agents and employees completely harmless from and against any and all liabilities, losses, suits, claims, judgments, fines or demands arising by reason of injury or death of any person or damage to any property, including all reasonable costs for investigation and defense thereof (including but not limited to attorney fees, court cost and expert fees), of any nature whatsoever arising out of or incident to this Agreement and/or the use or occupancy of the Premises or the acts or omissions of LESSEE's officers, agents, employees, contractors, subcontractors, licensees or invitees, regardless of where the injury, death or damage may occur, except to the extent such injury, death or damage is caused by the negligence of LESSOR. The LESSOR shall give to LESSEE reasonable notice of any such claims or actions.

LESSOR shall protect, defend and hold LESSEE, its officers, agents and employees completely harmless from and against all liabilities, losses, suits, claims, judgments, fines or demands arising by reason of injury to or death of any person or damage to any property, including all reasonable costs for investigation and defense thereof (including but not limited to attorney fees, court costs and expert fees), of any nature whatsoever arising out of or incident to this agreement and/or the use or occupancy of the Premises or the acts of omissions of LESSOR's officers, agents, employees, contractors, subcontractors, licensees or invitees, regardless of where the injury, death or damage is caused by the negligence of LESSEE. The LESSEE shall give LESSOR reasonable notice of any such claims or actions.

The provisions of this Section shall survive the expiration or termination of this Agreement to the extent that they relate to liabilities, losses, suits, claims, judgments, fines or demands arising from or incident to events occurring during LESSEE'S occupancy of the Premises. The LESSEE shall use counsel reasonably acceptable to LESSOR in carrying out its obligations in this Section.

### **37. DAMAGE OR DESTRUCTION**

In the event that facilities or improvements on the Premises are damaged or destroyed in whole or in part by fire, lightning or any other peril or other casualty during the term of this Agreement, this Agreement shall remain in full force and effect and LESSEE shall proceed with due diligence to repair, restore, rebuild or replace said damaged or destroyed property or parts thereof to as good a condition as all affected properties were in immediately prior to such damage or destruction, subject to such alterations as LESSEE may elect to make and are permitted in this Agreement. All proceeds from the insurance policies related to such damage or destruction shall be applied to cover the cost of such repairs or restoration.

In the event the improvements are damaged or destroyed in whole or in part by fire, lightning or any other peril or casualty not resulting in whole or in part from the actions of the LESSEE during the term of this Agreement, and such damage, destruction or loss exceeds fifty five percent (55%) of the value of the property as it existed prior to the casualty loss, LESSEE shall have the election, indicated by written notice given to LESSOR within 180 days after the occurrence of such event, not to repair, restore, rebuild or replace the improvements. Upon such election by LESSEE, this Agreement shall be terminated effective as of the date such notice is given by LESSEE, and neither party shall have any further rights or obligations pursuant to this Agreement other than LESSEE'S obligation to satisfy damages arising from any negligent or intentional action of itself, its employees, agents or invitees to the extent not covered by insurance proceeds. All of the insurance proceeds shall be paid to LESSEE and LESSOR in pro-rata distributions as their interests may appear based upon the fair market value of each party's interest at the time the proceeds are received. Where allowed by the insurance policy, insurance proceeds shall first be applied to removal of damaged improvements from the Premises before such distribution.

### **38. CONDEMNATION**

If, during the term, title to, or the temporary use of, all or any part of the Premises shall be condemned by any authority exercising the power of eminent domain, LESSEE shall, within fifteen (15) days after the date of entry of a final order in any eminent domain proceedings granting condemnation, notify LESSOR in writing as to the nature and extent of such condemnation and whether it is practicable for LESSEE to acquire or construct substitute improvements, or whether LESSEE shall elect to terminate this lease.

If LESSEE shall determine that such substitution is practicable and desirable and LESSOR shall agree thereto, LESSEE shall forthwith proceed with and complete with reasonable dispatch the acquisition or construction of such substitute improvements. In such case, any net proceeds received from any award or awards with respect to the Premises or any part thereof made in such condemnation or eminent domain proceeds shall be used and applied for the purpose of paying the cost of such substitution. Any proceeds not required for such costs shall be distributed to the parties in pro-rata distributions as their interests may appear based upon Agreement term remaining and the fair market value of each party's interest at the time the proceeds are received.

If LESSEE shall determine that it is not practicable and desirable to acquire or construct substitute improvements, any net proceeds shall be distributed to the parties in pro-rata distributions as their interests may appear based upon the Agreement term remaining, and the fair market value of each party's interest at the time the proceeds are received.

LESSOR shall cooperate fully with LESSEE in the handling and conduct of any prospective or pending condemnation proceedings with respect to the Premises or any part thereof. In no event will LESSEE or LESSOR voluntarily settle or consent to the settlement of any prospective or pending condemnation proceedings with respect to the Premises without the mutual agreement and written consent of the other party to this Agreement.

### **39. MODIFICATIONS FOR GRANTING FAA FUNDS**

In the event that the LESSOR determines the Federal Aviation Administration requirements call for modifications or changes to this Agreement as a condition precedent to granting of funds for the improvement of the Airport, these modifications or changes shall supersede this Agreement and LESSEE agrees to consent to such amendments, modifications, revisions, supplements or deletions of any of the terms, conditions or requirements of this Agreement as may be reasonably required by the LESSOR to fully comply with federal grant assurances and directives and to obtain Federal Aviation Administration grants-in-aid, provided that no such changes shall materially alter the rights or obligations of LESSEE hereunder.

#### **40. NONDISCRIMINATION**

The LESSEE agrees that it will not discriminate or permit discrimination against any person on the basis of race, color, sex, religion, disability, age (except where age is a bona fide occupational qualification), national origin or ancestry in its operations or services, and its use or occupancy of property under this Agreement. The LESSEE agrees to comply with all applicable provisions of federal and state laws, regulations, or executive orders prohibiting discriminatory conduct.

#### **41. GENERAL PROVISIONS**

**Facility Development.** LESSOR reserves the right to further develop or improve the landing area or any other area, building or other improvement within the present or future boundaries of Airport as it sees fit in its sole judgment regardless of the desires or view of LESSEE and without interference or hindrance by LESSEE. Further, LESSOR retains the absolute right to maintain, repair, develop and expand or replace the terminal building, utilities, ramps, taxiways, runways, streets, roadways, sidewalks, any other airport facility, airport improvement or airport property free from any and all liability to LESSEE for loss of business or damage of any nature whatsoever as may be occasioned during or because of the performance of such maintenance, repair, development, expansion or replacement.

**Maintenance, Repair, Direction and Control.** LESSOR reserves the right, but is not obligated to exercise the right, to maintain and keep in repair the landing area of the Airport and all publicly owned facilities of the Airport, together with the right to direct and control all activities of LESSEE in this regard. These areas will include, but are not limited to, those areas which are necessary to serve the aeronautical users of the Airport, except that LESSOR will not be obligated to maintain and keep in repair such areas of the Airport as may be leased to or under the control of Airport tenants, whether such area serves aeronautical users or otherwise.

**Operation of Airport by the United States of America.** This Agreement and all the provisions hereof will be subject to whatever right the United States of America now has or in the future may have or acquire, affecting the control, operation, regulation and taking over of said Airport or the exclusive or nonexclusive use of the Airport by the United States during the time of war or national emergency.

**14 CFR Part 77 of Federal Aviation Regulations.** LESSEE agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event future construction of a building, structure, or attachment thereto is planned for the Premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the Premises. LESSEE by accepting this Agreement expressly agrees for itself, its successors and assigns, that it will not erect nor permit the erection of any

structure or object, nor permit the growth of any tree on the Premises which will exceed such maximum height as may be stipulated by LESSOR. It is understood and agreed that applicable laws, codes, regulations or agreements concerning height restrictions will govern the maximum height to be stipulated by LESSOR. In the event the aforesaid covenants are breached, LESSOR reserves the right to enter upon the Premises and to remove the offending structure or object, and cut down the offending tree, all of which will be at the expense of LESSEE and without liability to LESSOR.

**Airspace.** There is hereby reserved to LESSOR, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises. This public right of flight will include the right to cause or allow in said airspace, any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking off from or operation on the Airport. No liability on the part of LESSOR will result from the exercise of this right.

**Easement for Flight.** LESSEE releases LESSOR from any present or future liability whatsoever and covenants not to sue LESSOR for damages or any other relief based directly or indirectly upon noise, light, vibrations, smoke, fumes, odors, air currents, electronic or other emissions occurring as a result of aviation or airport related operations at or otherwise associated with the Airport. This release and covenant includes but is not limited to claims for damages for physical or emotional injuries, discomfort, inconvenience, property damage, death, interference with use and enjoyment of property, nuisance, or inverse condemnation or for injunctive or other extraordinary or equitable relief. It is further agreed that LESSOR shall have no duty to avoid or mitigate such damages by, without limitation, setting aside or condemning buffer lands, rerouting air traffic, erecting sound or other barriers, establishing curfews, noise or other regulations, relocating airport facilities or operations or taking other measures, except to the extent, if any, that such actions are validly required by government authority. LESSOR reserves these rights from the Premises an easement for flight of aircraft in or adjacent to the airspace above the Premises and for the existence and imposition over, on and upon said Premises of noise, light, vibrations, smoke, fumes, odors, air currents, electronic or other emissions, discomfort, inconvenience, interference with use and enjoyment, and any consequent reduction in market value which may occur directly or indirectly as a result of aviation, airport or airport-related operations at or otherwise associated with use of the Airport. LESSEE accepts the Premises subject to the risks and activities hereinabove described.

**Airport Hazards.** LESSEE by accepting this Agreement agrees for itself, its successors and assignees, that it will not make use of the leased Premises in any manner which might interfere with the landing and taking off of aircraft from the Airport or otherwise constitute a hazard. In the event this Agreement term is breached, LESSOR reserves the right to enter upon the Premises and cause the abatement of such interference at the expense of LESSEE without



liability to LESSOR of any kind.

**Airport Rules and Regulations, Policies, and Standard Operating Procedures.** LESSOR will have the right to adopt, amend and enforce reasonable airport rules and regulations, policies and standard operating procedures with respect to use of and the conduct and operation of the Airport, its buildings and facilities or any improvements within the present or future boundaries of the Airport, which LESSEE agrees to observe and obey.

**Federal Aviation Administration Requirements.** LESSOR and LESSEE agree that the requirements of the Federal Aviation Administration (FAA) set out below are approved by both parties, and if applicable, LESSEE agrees to comply with all FAA requirements with respect to its operations, use of the Airport and this Agreement:

(a) The LESSEE, for itself and its representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained or otherwise operated on said property described in this Agreement for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the LESSEE shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

(b) The LESSEE, for itself and its representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the LESSEE shall use the Premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

(c) The LESSEE assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The LESSEE assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The LESSEE assures that it will require that its covered suborganizations provide assurances to the LESSEE that they similarly will undertake affirmative action programs, and that they will require assurances from their suborganizations, as

required by 14 CFR Part 152, Subpart E, to the same effect.

(d) It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act of 1958.

(e) LESSEE agrees to furnish service on a fair, equal and not unjustly discriminatory basis to all users thereof, and to charge fair, reasonable and not unjustly discriminatory prices for each unit or service; PROVIDED, that LESSEE may make reasonable and nondiscriminatory discounts, rebates or other similar types of price reductions to volume purchasers.

(f) LESSOR reserves the right (but shall not be obligated to LESSEE) to maintain and keep in repair the landing area of the airport and all publicly-owned facilities of the airport, together with the right to direct and control all activities of LESSEE in this regard.

(g) LESSOR reserves the right further to develop or improve the landing area and all publicly-owned air navigation facilities of the airport as it sees fit, regardless of the desires or views of LESSEE, and without interference or hindrance.

(h) LESSOR reserves the right to take any action it considers necessary to protect the aerial approaches of the airport against obstruction, together with the right to prevent LESSEE from erecting, or permitting to be erected, any building or other structure on the airport which, in the opinion of LESSOR, would limit the usefulness of the airport or constitute a hazard to aircraft.

(i) During time of war or national emergency LESSOR shall have the right to enter into an agreement with the United States Government for military or naval use of part or all of the landing area, the publicly-owned air navigation facilities and/or other areas or facilities of the airport. If any such agreement is executed, the provisions of this instrument, insofar as they are inconsistent with the provisions of the agreement with the Government, shall be suspended.

(j) It is understood and agreed that the rights granted by this agreement will not be exercised in such a way as to interfere with or adversely affect the use, operation, maintenance or development of the airport.

(k) There is hereby reserved to LESSOR, its successors and assigns, for the use and benefit of the public, a free and unrestricted right of flight for the passage of aircraft in the air space above the surface of the Premises herein conveyed, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft now known or hereafter used for navigation of or flight in the air, using said airspace or landing at, taking off from or operating on or about the airport.

(l) This Agreement shall become subordinate to provisions of any existing or future agreement between the LESSOR and the United States of America or any agency thereof relative to the operation, development or maintenance of the airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport.

**Subordination to Agreements with the U.S. Government.** This Agreement is subject and subordinate to the provisions of any agreements heretofore or hereafter made between LESSOR and the United States Government relative to the operation or maintenance of Airport, the execution of which has been required as a condition precedent to the transfer of federal rights or property to LESSOR for Airport purposes, or the expenditure of federal funds for the improvement or development of Airport, including the expenditure of federal funds for the development of Airport in accordance with the provisions of the Federal Aviation Act of 1958, as it has been amended from time to time. LESSOR covenants that it has no existing agreements with the United States Government in conflict with the express provisions hereof.

**Non-Waiver of Rights.** No waiver or default by either party of any of the terms, warranties, covenants and conditions hereof to be performed, kept and observed by the other party shall be construed as, or shall operate as, a waiver of any subsequent default of any of the terms, warranties, covenants or conditions herein contained, to be performed, kept and observed by the other party.

**Notices.** Notices required herein may be given by registered, certified, or express mail, and shall be deemed served on the date such notice is deposited in the United States Mail, or by prepaid private courier in the continental United States. Either party shall have the right, by giving written notice to the other, to change the address at which its notices are to be received.

Until any such change is made, notices to LESSOR shall be delivered as follows:

Wichita Airport Authority  
Wichita Mid-Continent Airport  
2173 Air Cargo Road  
Wichita, Kansas 67209

Until any such change is made, notices to LESSEE shall be delivered as follows:

ExcelAire LLC  
2221 Smithtown Ave  
Ronkonkoma, NY 11779

**Captions.** The captions/headings of the Sections of this Agreement are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope or intent of any provisions of this Agreement, and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.

**Severability and Invalid Provisions.** In the event any term, covenant, condition or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of any such term, covenant, condition or provision shall in no way affect any other term, covenant, condition or provision herein contained; provided, however, that the invalidity of any such term, covenant, condition or provision does not materially prejudice either the LESSOR or the LESSEE in their respective rights and obligations contained in the valid terms, covenants, conditions or provisions in this agreement.

**Waiver of Claims.** LESSEE hereby waives any claim against LESSOR and its officers or employees for loss of anticipated profits, consequential or incidental damages, or claim for attorney fees caused by or resulting any suit or proceedings directly or indirectly attacking the validity of Agreement or any part thereof, or the manner in which it is executed or performed, or by any judgment or award in any legal proceeding declaring this Agreement null, void or voidable, or delaying the same of any part thereof, from being carried out. This waiver extends to all claims, whether the supporting legal theory lies in common law or has a statutory basis.

**Incorporation of Exhibits.** All exhibits referred to in this Agreement are intended to be and are hereby specifically made a part of this Agreement.

**Incorporation of Required Provisions.** The parties incorporate in this Agreement by this reference all provisions lawfully required to be contained herein by any governmental body or agency.

**Non-Liability of Agents and Employees.** No member, officer, agent or employee of either party to this Agreement shall be charged personally, or held contractually liable by or to the other party under the terms or provisions of this Agreement, or because of any breach thereof or because of its or their execution or attempted execution.

**Successors and Assigns Bound.** This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto where permitted by this Agreement.

**Time of Essence.** Time is of the essence in this Agreement.

**Relationship of the Parties.** It is understood LESSEE is not in any way or for any purpose a partner or joint venturer with or an agent of LESSOR. LESSEE shall act as an independent contractor in the performance of its duties pursuant to this Agreement.

**Interpretation.** LESSOR and LESSEE hereby agree that this Agreement shall not be construed or interpreted in favor of either party on the basis of preparation.

**Kansas Laws to Govern.** This Agreement and the terms and conditions herein contained shall at all times be governed, interpreted and construed under and in accordance with the laws of the State of Kansas, and venue for resolution of any issue pertaining to this Agreement shall be in Sedgwick County, Kansas.

#### **42. THIRD PARTY RIGHTS**

It is agreed between the parties that it is not intended by any of the provisions of this Agreement to create for the public or any member thereof the status of a third-party beneficiary, or to authorize anyone not a party to this Agreement to maintain a suit for damages pursuant to the terms or provisions of this Agreement.

#### **43. QUIET ENJOYMENT**

LESSOR agrees that, on payment of the rentals and fees and performance of the terms, covenants, conditions and agreements on the part of LESSEE to be performed in this Agreement, LESSEE will have the right to peaceably occupy and enjoy the Premises, subject however, to the GENERAL PROVISIONS contained in Section 41.

#### **44. HOLD OVER**

In the event LESSEE holds over the lease of the Premises, any rights granted after expiration of this Agreement without any written renewal of it shall not be deemed to operate as a renewal or extension of this Agreement, but shall only create a month-to-month arrangement, which may be terminated within thirty (30) days notice by LESSOR or LESSEE.

#### **45. SURRENDER OF POSSESSION AND RESTORATION**

LESSEE shall yield and deliver to LESSOR possession of the Premises at the expiration or termination of this Agreement in good condition in accordance with LESSEE's obligations in this Agreement, except for reasonable wear and tear, or fire or other casualty for which full insurance compensation has been paid as agreed. LESSEE shall, at its expense, deliver the Premises in good order and condition, including: (1) cleaning and hauling away all supplies and trash; (2) removing by legal means all materials and Substances classified as hazardous; (3) leaving in operating condition all bulbs and ballasts; (4) replacing all broken glass, (5) remove all computer network cable, and (6) return to LESSOR all keys to all doors and gates.

LESSEE, at LESSEE's expense, shall remove during the Term of the Agreement or at its expiration all non-attached equipment and personal property placed by LESSEE on or about the Premises herein leased, subject to LESSEE's repairing any damage thereto caused by such removal and subject to any valid lien which LESSOR may have on that property for unpaid rents, expenses or fees.

In the event LESSEE does not remove all of its equipment and personal property within thirty (30) calendar days after the termination of this Agreement, any remaining property shall be considered abandoned and LESSOR may dispose of said property without any further responsibility or liability to LESSEE. The net disposal costs of such property shall be the financial obligation of LESSEE.

#### **46. INTENTION OF PARTIES**

This Agreement is intended solely for the benefit of LESSOR and LESSEE and is not intended to benefit, either directly or indirectly, any third party or member(s) of the public at large. Any work done or inspection of the Premises performed by LESSOR is solely for the benefit of LESSOR and LESSEE.

Nothing contained herein shall be deemed or construed by the parties hereto, or by any third party, as creating the relationship of principal and agent, partners, joint ventures, or any other similar such relationship, between the parties hereto. Further, non-parties to this Agreement may not maintain a suit for personal injuries or property damage pursuant to the terms or provisions of the Agreement. The parties shall understand and agree that neither the method of payment, nor any other provision contained herein, nor any act(s) of the parties hereto creates a relationship other than the relationship of the LESSOR and the LESSEE.

#### **47. ENTIRE AGREEMENT**

The parties understand and agree that this instrument contains the entire Agreement between them. The parties hereto further understand and agree that the other party and its agents have made no representations or promises with respect to the Agreement or the making or entry into this Agreement, except as expressed in this Agreement, and that no claim or liability or cause for termination shall be asserted by either party against the other and such party shall not be liable by reason of, the making of any representations or promises not expressly stated in this Agreement, any other written or oral agreement with the other being expressly waived.

The individuals executing this Agreement personally warrant that they have full authority to execute this Agreement on behalf of the entity for which they are acting herein.

The parties hereto acknowledge that they have thoroughly read this Agreement, including any exhibits or attachments hereto, and have sought and received whatever competent advice and counsel deemed necessary for them to form a full and complete understanding of all rights and obligations herein.

#### **48. AMENDMENT**

This Agreement constitutes the entire Agreement between the parties for the lease of Premises set forth and identified under Section 1. No amendment, modification, or alteration of the terms of this Agreement shall be binding unless the same is in writing, dated subsequent to the date hereof, and duly executed by the parties hereto.

#### **49. APPROVAL, CONSENT, DIRECTION OR DESIGNATION BY LESSOR**

Wherever under this Agreement, approvals, consents, directions, or designations are required or permitted, such approvals, consents, directions, or designations required or permitted under this Agreement shall be performed by the Director of Airports, or his/her authorized representative. Approvals, consents, directions, or designations made at any time by the Director of Airports, and from time to time, may be withdrawn or modified by notice from LESSOR to LESSEE.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.

ATTEST:

THE WICHITA AIRPORT AUTHORITY  
WICHITA, KANSAS

By \_\_\_\_\_  
Karen Sublett, City Clerk

By \_\_\_\_\_  
Carl Brewer, President  
"LESSOR"

By \_\_\_\_\_  
Victor D. White, Director of Airports

ATTEST:

By \_\_\_\_\_

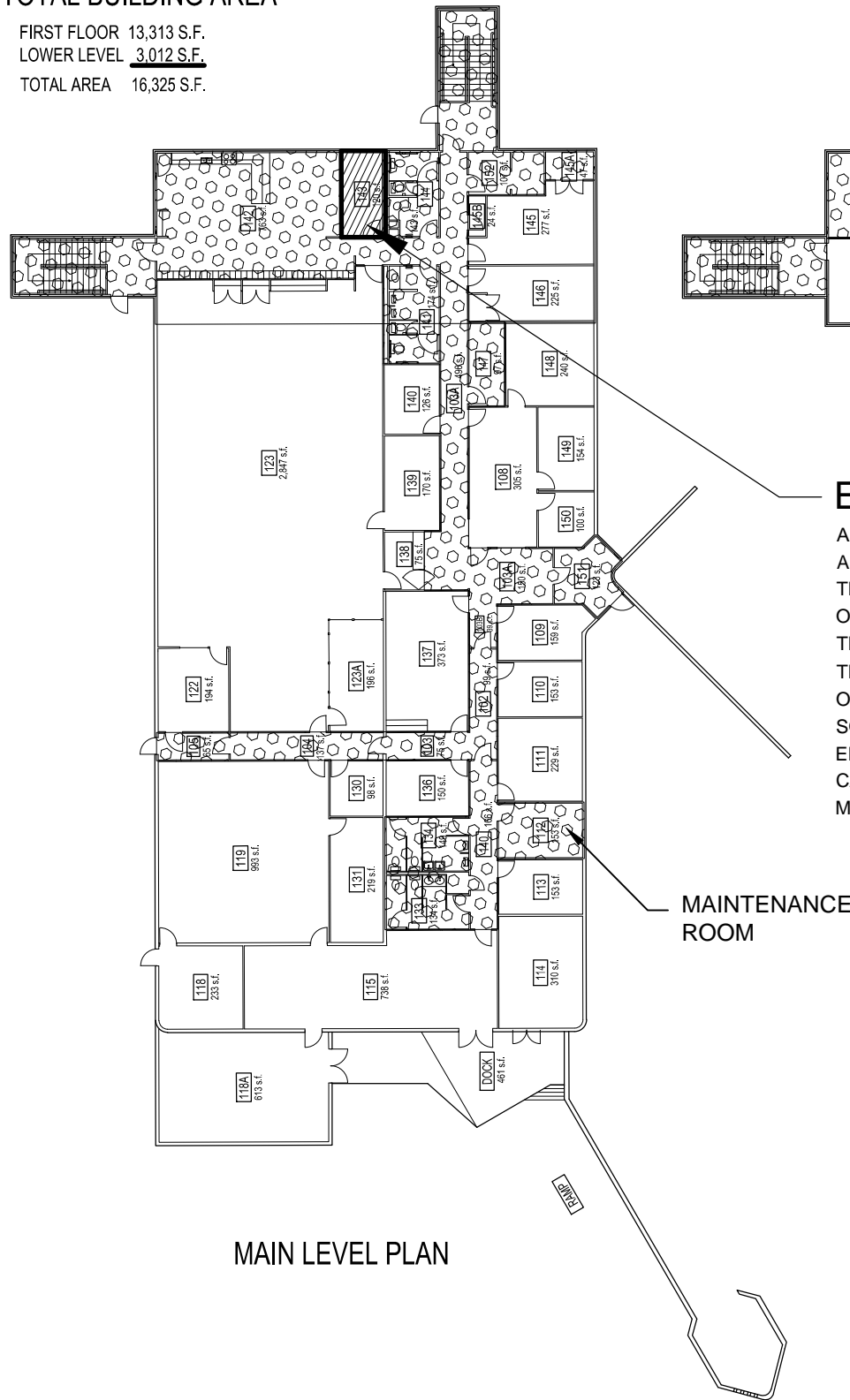
By \_\_\_\_\_  
David Rimmer, President  
EXCELAIRE, LLC  
"LESSEE"

APPROVED AS TO FORM: \_\_\_\_\_ Date: \_\_\_\_\_  
Director of Law

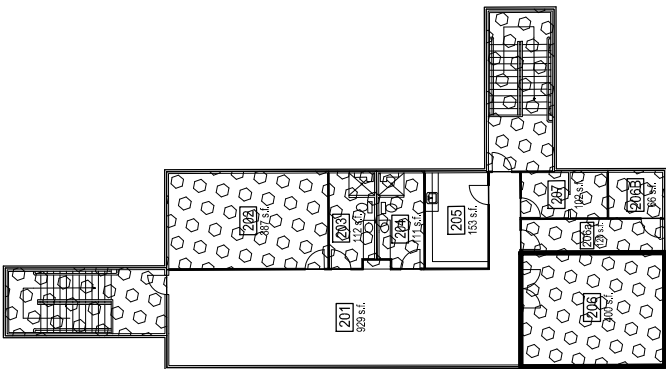


TOTAL BUILDING AREA

FIRST FLOOR 13,313 S.F.  
LOWER LEVEL 3,012 S.F.  
TOTAL AREA 16,325 S.F.



MAIN LEVEL PLAN



LOWER LEVEL PLAN

EXCELAIRE

APPROX. 120± s.f. OFFICE SPACE  
ALL ROOM AREAS ARE CALCULATED TO THE CENTER OF WALLS, INCLUDING OUTSIDE WALLS. AND ARE ROUNDED TO THE NEAREST SQUARE FOOT.  
THE STANDARD FOR ROOMS ALONG THE OUTSIDE WALLS IS TO INCLUDE THE SQUARE FOOTAGE TO THE OUTSIDE EDGE. FOR THIS BUILDING WE CALCULATED THE SQUARE FOOTAGE TO MIDDLE OF THE OUTSIDE WALL.

MAINTENANCE ROOM

LEGEND



OFFICE AREA = 120± sq.ft.

1761 AIRPORT ROAD

WICHITA MID-CONTINENT AIRPORT

THE WICHITA AIRPORT AUTHORITY  
WICHITA, KANSAS

DATE	DR. BY	SCALE	SHEET
4/10/12	H.G.O.	1" = 30'	1 of 1